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MONTANA LEGISLATIVE HISTORY

Chapter 585 19 2001

Bill H _____ S 176

Original bill & history ☒ c

H. Committee on Appropriations

Hearing Date(s) _____ c

4/2 ☒ c

_____ c

_____ c

Date Out

4/5 ☒ c

S. Committee on Finance & Judiciary

Hearing Date(s) 1/29 ☒ c

2/17 ☒ c

3/20 ☒ c

3/21 ☒ c

2/17 ☒

* Free Conf. Comm. 4/19 ☒

Did this bill originate in an interim committee? ☒ Yes ☐ No

Committee Court Funding
& Structure

Report Available
at Law Library

SB 176 Introduced by McNutt

LC0089 Drafter: Lane

Revise District Court Funding -- State Assumption

By Request of Department of Revenue & Department of Administration

8/14	Fiscal Note Needed		
12/26	Introduced		
12/28	Fiscal Note Requested		
1/04	First Reading		
1/04	Referred to Judiciary		
1/29	Fiscal Note Received		
1/29	Hearing		
1/29	Fiscal Note Signed		
1/30	Fiscal Note Printed		
2/19	Committee Executive Action--Bill Passed as Amended	8	1
2/19	Committee Report--Bill Passed as Amended		
2/21	2nd Reading Passed as Amended	24	20
2/21	Segregated from Committee of the Whole Report	50	0
2/21	Rereferred to Finance		
3/20	Hearing		
3/22	Committee Executive Action--Bill Passed	15	3
3/22	Committee Report--Bill Passed		
3/24	2nd Reading Passed as Amended	28	20
3/26	3rd Reading Passed	27	19
	Transmitted to House		
3/28	Referred to Appropriations		
4/02	Hearing		
4/05	Revised Fiscal Note Received		
4/05	Committee Executive Action--Bill Concurred as Amended	14	4
4/05	Committee Report--Bill Concurred as Amended		
4/06	Revised Fiscal Note Requested		
4/07	2nd Reading Concurred	74	26
4/07	Revised Fiscal Note Printed		
4/09	3rd Reading Concurred	77	23
	Returned to Senate with Amendments		
4/18	2nd Reading House Amendments Not Concurred on Voice Vote	49	0
4/18	Free Conference Committee Appointed		
4/19	Free Conference Committee Appointed		
4/19	Hearing		
4/19	Free Conference Committee Report Received		
4/19	Free Conference Committee Report Received		
4/20	2nd Reading Free Conference Committee Report Adopted	92	8
4/20	2nd Reading Free Conference Committee Report Adopted on Voice Vote	48	0
4/21	3rd Reading Free Conference Committee Report Adopted	40	7
4/21	3rd Reading Free Conference Committee Report Adopted	82	17
4/23	Sent to Enrolling		
4/25	Returned from Enrolling		
4/26	Signed by President		

HISTORY AND FINAL STATUS 2001

- 4/26 Signed by Speaker
- 4/26 Transmitted to Governor
- 5/05 Signed by Governor
- 5/05 Chapter Number Assigned
 - Chapter Number 585
 - Effective Date: 5/05/2001 - Sections 21, 52(2), 53-55, and 63-65
 - Effective Date: 7/01/2001 - Sections 1, 4-8, and 62
 - Effective Date: 7/01/2002 - Sections 2, 3, 9-20, 22-51, 52(1), and 56-61

LC0267 Introduced by Wells LC0267 Drafter: Fox

Fundamental Right of Parents in Upbringing of Child

- 12/26 Introduced
- 1/03 First Reading
- 1/03 Referred to Judiciary
- 1/15 Hearing
- 1/16 Tabled in Committee
- 2/23 Missed Deadline for General Bill Transmittal

LC0437 Introduced by Tash LC0437 Drafter: Niss

Repeal Certificate of Need for Health Care Facilities Laws If Program Not Funded

By Request of Department of Public Health and Human Services

- 11/06 Fiscal Note Needed
- 12/26 Introduced
- 12/28 Fiscal Note Requested
- 1/03 First Reading
- 1/03 Referred to Public Health, Welfare and Safety
- 1/08 Fiscal Note Received
- 1/08 Fiscal Note Signed
- 1/08 Fiscal Note Printed
- 2/05 Hearing
- 2/13 Tabled in Committee
- 2/23 Missed Deadline for General Bill Transmittal

LC0439 Introduced by Zook LC0439 Drafter: Petesch

Revise Budgeting and Appropriation Laws

By Request of Office of Budget and Program Planning

- 12/26 Introduced
- 12/28 Fiscal Note Requested
- 1/03 First Reading
- 1/03 Referred to Finance
- 1/11 Fiscal Note Received
- 1/11 Fiscal Note Signed
- 1/12 Fiscal Note Printed
- 1/15 Hearing
- 1/29 Committee Executive Action--Bill Passed as Amended 13 5
- 1/29 Committee Report--Bill Passed as Amended
- 1/31 2nd Reading Passed as Amended on Voice Vote 47 0
- 2/01 3rd Reading Passed 44 1
- Transmitted to House
- 3/01 Referred to Appropriations
- 3/23 Hearing

2001 Montana Legislature

About Bill -- Links

SENATE BILL NO. 176

INTRODUCED BY W. MCNUTT



AN ACT PROVIDING FOR STATE ASSUMPTION OF THE COSTS OF FUNDING DISTRICT COURTS; EXCLUDING COUNTY ATTORNEYS, PUBLIC DEFENDERS, AND CLERKS OF DISTRICT COURT FROM STATE ASSUMPTION; PROVIDING FOR THE ADOPTION BY THE SUPREME COURT OF A JUDICIAL BRANCH PERSONNEL PLAN; PROVIDING FOR A DISTRICT COURT COUNCIL; ELIMINATING THE PROVISION ALLOWING THE DISTRICT COURT TO DIRECT THE COUNTY SHERIFF TO PROVIDE COURT FACILITIES AT COUNTY EXPENSE; PROVIDING THAT COURT REPORTERS MAY BE STATE EMPLOYEES OR INDEPENDENT CONTRACTORS; PROVIDING THAT NONELECTED EMPLOYEES OF THE DISTRICT COURT BE STATE EMPLOYEES, INCLUDING CERTAIN COURT REPORTERS, PUBLIC DEFENDERS, AND JUVENILE PROBATION OFFICERS AND ASSESSMENT OFFICERS; PROVIDING FOR TRANSFER OF DISTRICT COURT EMPLOYEES FROM COUNTY EMPLOYMENT TO STATE EMPLOYMENT WITH FULL BENEFITS AND PROTECTIONS; DELINEATING THE USES FOR THE COUNTY LEVY FOR COURT EXPENSES; REQUIRING THAT MOST FEES COLLECTED BY THE CLERK OF DISTRICT COURT BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND; REPEALING STATUTORY SALARY AMOUNTS FOR COURT REPORTERS AND JUVENILE PROBATION OFFICERS; REQUIRING THE DISTRICT COURT COUNCIL TO PROVIDE A RECOMMENDATION REGARDING ENUMERATING AS DISTRICT COURT EXPENSES SPECIFIC EXPENSES REGARDING PROCEEDINGS FOR INVOLUNTARY COMMITMENTS AND YOUTH COURT; AMENDING SECTIONS 3-1-702, 3-2-501, 3-2-714, 3-5-511, 3-5-515, 3-5-601, 3-5-602, 3-5-604, 3-5-901, 3-5-902, 3-15-204, 3-15-205, 7-6-2324, 7-6-2426, 7-6-2511, 17-7-502, 22-1-504, 25-1-201, 25-1-202, 25-1-1103, 25-9-506, 25-9-804, 27-9-103, 40-4-215, 40-4-226, 41-5-1701, 41-5-1702, 41-5-1706, 41-5-1707, 42-2-105, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-116, 46-18-235, 46-18-603, 52-6-105, 53-9-104, AND 61-3-509, MCA; REPEALING SECTIONS 3-5-404, 3-5-903, 7-6-2352, 7-6-2427, 7-6-2428, 25-2-205, 41-5-1704, AND 41-5-1705, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Supreme court -- adoption of judicial branch personnel plan. (1) The supreme court shall adopt a plan of personnel administration for employees of the judicial branch, other than justices,

judges, the supreme court administrator, the librarian of the state law library, the clerk of the supreme court, county attorneys, deputy county attorneys, salaried public defenders, assistant public defenders, employees of the offices of public defenders, clerks of district court, and employees of the offices of the clerks of district court. The plan must include but not be limited to classification and pay, recruitment and selection, performance appraisal, training, and promotion.

(2) The court administrator appointed under 3-1-701 shall, under the direction of the supreme court, administer the judicial branch personnel plan adopted under this section.

Section 2. County to provide district court office space. (1) Each county or consolidated city-county government shall provide office, courtroom, and other space for district court operations.

(2) Costs of providing office, courtroom, and other space for district court operations are a district court expense within the meaning of 7-6-2351 and 7-6-2511.

Section 3. Local government authority to supplement district court budget. A local government may contract with the supreme court administrator's office to provide funds to supplement the budget of a district court in the county's jurisdiction.

Section 4. District court council -- administration of state funding of district courts. (1) The district court council shall adopt policies and procedures to administer the state-funded district court program as established in 3-5-901.

(2) The court administrator appointed under 3-1-701 shall administer the policies and procedures adopted under this section.

(3) Money appropriated for the district court program may not be used for any other purpose.

Section 5. District court council -- appointment -- composition -- duties -- staggered terms -- staff. (1) There is a district court council. The council must be composed of nine members as follows:

(a) the chief justice of the supreme court or a designee of the chief justice;

(b) four district court judges elected by district court judges, one of whom must be from a judicial district that does not contain a first-class city as provided in 7-1-4111; and

(c) the following ex officio, nonvoting members appointed by the supreme court:

(i) one chief juvenile probation officer nominated by the Montana juvenile probation officers association;

(ii) one clerk of the district court nominated by the Montana association of clerks of district courts;

(iii) one county commissioner nominated by the Montana association of counties; and

(iv) one court reporter nominated by the Montana court reporters association.

(2) The chief justice or the chief justice's designee shall serve as the presiding officer of the council and shall appoint a vice presiding officer to act in the absence of the presiding officer.

(3) The district court council shall develop and adopt policies and procedures, subject to review by the supreme court, to administer the state funding of district courts. The policies and procedures must address but not be limited to the following issues related to district courts:

(a) workload;

(b) resource allocation among the district courts;

(c) hiring policies;

(d) court procedures;

(e) information technology;

(f) for court reporters, work schedules, transcript fees, and equipment; and

(g) other issues regarding the state funding of district courts.

(4) Each district court judge shall retain the inherent power to select and appoint the judge's own necessary assistants and employees and to direct the performance of their duties.

(5) The chief justice of the supreme court shall serve on the council during the term of election or appointment. Other members shall serve staggered 3-year terms.

(6) The court administrator shall provide sufficient support to the council to allow it to carry out its statutory duties.

(7) The council shall provide reports to the legislature and supreme court upon request.

Section 6. District court council vacancies. (1) In the event that a vacancy on the district court council occurs, the supreme court shall appoint a replacement for the remainder of the term. The replacement must be a member of the same group as the member replaced.

(2) Appointments provided for in this section must be made within 30 days of the occurrence of the vacancy.

Section 7. District court council meetings -- quorum. (1) The district court council may determine the time and place of its meetings and shall meet at least once each quarter.

(2) A majority of the voting members of the council constitutes a quorum. A quorum may call a meeting upon reasonable notice to the other council members.

Section 8. No compensation -- travel expenses. The members of the district court council are not entitled to compensation for their services, but are entitled to travel expenses, as provided for in 2-18-501 through 2-18-503, while engaged in the discharge of council duties.

Section 9. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) recommend to the supreme court improvements in the judiciary;

(4) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

~~(4)~~(5) administer state funding for district courts, as provided in chapter 5, part 9; and

(6) administer the judicial branch personnel plan; and

~~(5)~~(7) perform other duties that the supreme court may assign."

Section 10. Section 3-2-501, MCA, is amended to read:

"3-2-501. Appointment of marshal and other employees. (1) The supreme court must shall appoint a marshal of the supreme court and may appoint such other attendants, reporters, and clerks as that are necessary, who hold office at the pleasure of the court.

(2) The marshal and other persons appointed under subsection (1) are employees of the judicial branch of state government, are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under [section 1], and must receive state employee benefits and expenses as provided in Title 2, chapter 18."

Section 11. Section 3-2-714, MCA, is amended to read:

"3-2-714. Civil legal assistance for indigent victims of domestic violence account. (1) There is a

civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There must be paid into this account the filing fees paid under 25-1-201(4)(a)(3)(a) and ~~(11)~~ (6). The money in the account must be used solely for the purpose of providing legal representation for indigent victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law cases. Money in the account may not be used for class action lawsuits.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily render or finance legal services to indigent persons in civil matters in domestic violence cases to receive or administer the distribution of the funds."

Section 12. Section 3-5-511, MCA, is amended to read:

"3-5-511. Procedure in reference to witnesses' warrants. (1) The witnesses in criminal actions must shall report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk must shall give to the witness a warrant taken from a book containing a carbon copy of the same warrant, signed by the clerk, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

(3) On presentation of such warrant to the county treasurer, the The amount specified in the warrant must be paid out of the general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid out of such fund by the state as provided in 3-5-901 and 3-5-902."

Section 13. Section 3-5-515, MCA, is amended to read:

"3-5-515. Fees for naturalization. The clerk of the district court shall collect from every person to whom a final certificate of naturalization is issued, at the time that the same certificate is issued, all fees authorized by law. All fees must be accounted for and paid to the county treasurer, as provided by 7-4-2511(1), and shall be credited to the general fund of the county forwarded to the state treasurer for deposit in the state general fund."

Section 14. Section 3-5-601, MCA, is amended to read:

"3-5-601. Appointment Court reporters -- appointment -- oath -- employment status. (1) The judge of a district court may appoint a reporter for such the court who is an officer of the court and holds his office during at the pleasure of the appointing judge appointing him. He must subscribe The court reporter shall take the constitutional oath of office and file the same it with the clerk of the court. In districts where there are two or more judges, each judge may appoint a reporter. The judge shall direct the performance of the court reporter's duties.

(2) Court reporter services may be provided by a court reporter appointed:

(a) as a state employee foregoing transcription fees;

(b) as a state employee retaining transcription fees; or

(c) as an independent contractor.

(3) A court reporter appointed under subsection (2)(a) or (2)(b) is subject to classification and compensation as determined by the judicial branch personnel plan adopted under [section 1] and must receive state employee benefits and expenses as provided in Title 2, chapter 18.

(4) (a) If a court reporter is appointed under subsection (2)(a), the state shall provide all equipment and supplies for the reporter's use. Any transcription fees paid for the reporter's transcription services must be forwarded to the state treasurer for deposit in the state general fund.

(b) If a court reporter is appointed under subsection (2)(b), the state shall provide equipment and supplies for the reporter's use, except that the reporter shall provide and maintain all equipment and supplies for performance of transcription duties unless equipment is shared, as provided in subsection (5). A reporter may not receive overtime for time spent on preparation of transcripts for which the reporter retains fees. The reporter shall retain all transcription fees paid for the reporter's transcription services.

(c) A court reporter appointed under subsection (2)(c) shall contract with the judicial branch as an independent contractor. The reporter shall provide and maintain the reporter's necessary equipment and supplies, retain all transcription fees paid for the reporter's transcript preparation services, and maintain professional liability insurance and workers' compensation coverage.

(5) A court reporter may use state-owned equipment under policies adopted by the district court council under [section 5] to avoid duplication of equipment costs. Use of shared equipment under this subsection is not a violation of 2-2-121(2)(a)."

Section 15. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary Court reporter as independent contractor -- compensation and expenses -- apportionment. (1) Each court reporter who is an independent contractor under 3-5-601 is entitled to receive a base annual salary of not less than \$28,000 or more than \$35,000 and no other compensation except as provided in 3-5-604, unless the judge decides to solicit bids for the work performed by the reporter, in which case the salary must be for the amount specified in the bid accepted by the judge. The salary must be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties composing the district for which the reporter is appointed and out of an appropriation made to the supreme court administrator as provided in subsection (2) compensation as provided in the contract.

(2) The supreme court administrator shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district and the amount appropriated for that purpose. Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts

in the district. The judge or judges of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in the district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511 pay the compensation due under subsection (1) as provided in 3-5-901 and 3-5-902.

(3) In judicial districts comprising more than one county, the court reporter is allowed, in addition to the salary and fees compensation provided for in subsection (1) and fees, actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when on official business to a county of the reporter's judicial district other than the county in which the reporter resides. The expenses must be apportioned and are payable in the same way as the salary are payable as provided in subsection (2)."

Section 16. Section 3-5-604, MCA, is amended to read:

"3-5-604. Transcript Court reporters -- transcript of proceedings -- costs. (1) Each court reporter shall furnish, upon request, with all reasonable diligence, to a party or a party's attorney in a case in which the court reporter has attended the trial or hearing a transcript from stenographic notes of the testimony and proceedings of the trial or hearing or a part of a trial or hearing upon payment by the person requiring the transcript of \$2 a page for the original transcript, 50 cents a page for the first copy, and 25 cents a page for each additional copy.

(2) If the court reporter is not entitled to retain transcription fees under 3-5-601, the transcription fees required by subsection (1) must be paid to the clerk of district court who shall forward the amount to the state treasurer for deposit in the state general fund.

~~(2)~~(3) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to the reporter's fees for the transcript, but the reporter shall furnish it. Upon furnishing it, the reporter must receive a certificate for the sum to which the reporter is entitled. The reporter shall submit the certificate to the supreme court administrator who, in accordance with 3-5-902, is responsible for the prompt payment of all or a portion of the amount due the reporter. If the state, in accordance with 3-5-902, pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter. The transcription fee must be paid by the state as provided in 3-5-901.

~~(3)~~(4) If the judge requires a copy in a civil case to assist in rendering a decision, the reporter shall furnish the copy without charge. In civil cases, all transcripts required by the county must be furnished, and only the reporter's actual costs of preparation may be paid by the county.

~~(4)~~(5) If it appears to the judge that a defendant in a criminal case or a parent or guardian in a proceeding brought pursuant to Title 41, chapter 3, part 4 or 6, is unable to pay for a transcript, it must be furnished to the party and paid for by the state in the manner provided in subsection (2) to the extent funds are available. The county shall pay the remainder as required as provided in 3-5-901."

Section 17. Section 3-5-901, MCA, is amended to read:

"3-5-901. State assumption of certain district court expenses -- designation as district court

reimbursement program. (1) ~~To the extent that revenue is available under 61-3-509, the~~ There is a state-funded district court program. Under this program, the state shall fund:

~~(a) the following district court expenses in criminal cases only:~~

~~(i) salaries of court reporters;~~

~~(ii) fees for transcripts of proceedings;~~

~~(iii) witness fees and necessary expenses;~~

~~(iv) juror fees;~~

~~(v) expenses for indigent defense; and~~

~~(vi) expenses for psychiatric examinations;~~ all district court costs, except as provided in subsection (2). These costs include but are not limited to:

(a) salaries and benefits for:

(i) district court judges;

(ii) law clerks;

(iii) court reporters, as provided in 3-5-601;

(iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court; and

(v) other employees of the district court;

(b) in criminal cases, fees for transcripts of proceedings, as provided in 3-5-604, witness fees and necessary expenses, juror fees, and expenses for psychiatric examinations;

~~(b)(c)~~ the district court expenses, ~~as listed in subsection (1)(a),~~ in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;

~~(c)(d)~~ the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

(i) transcript fees;

(ii) witness fees; and

(iii) expenses for psychiatric examinations; and

~~(d)(e)~~ the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

(i) transcript fees;

(ii) witness fees;

(iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;

(iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and

~~(v) expenses for appointed counsel for the youth;~~

~~(vi) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth; and~~

~~(vii)~~(v) expenses associated with court-ordered alternative dispute resolution;

(f) costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2) (a);

(h) all district court expenses associated with civil jury trials if those expenses were paid out of the district court budget in fiscal year 1998 or fiscal year 1999; and

(i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors, costs of the youth court and youth division offices, and costs of training for persons listed in subsections (1)(a)(i) through (1)(a)(v), but excluding the cost of providing district court office, courtroom, and other space as provided in [section 2].

~~(2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(d), the district court grant program as described in subsection (4)(a), and the costs of administering this section.~~

~~(3) All revenue disbursed under this section must be deposited in and credited to the district court fund. If a district court fund does not exist, the revenue must be deposited in the county general fund for district court operations.~~

~~(4) If money appropriated for the expenses listed in subsection (1):~~

~~(a) exceeds the amount necessary to fully fund those expenses, the remaining excess amounts must be used for district court grants as provided in 7-6-2352; or~~

~~(b) is insufficient to fully fund those expenses, the county is responsible for payment of the balance.~~

(2) For the purposes of subsection (1), district court costs do not include:

(a) one-half of the salaries of county attorneys;

(b) salaries of deputy county attorneys;

(c) salaries of employees and expenses of the office of county attorney;

(d) costs for clerks of district court and employees and expenses of the office of the clerks of district court; or

(e) costs of providing district court office space.

(3) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall fund[:

(a)] the expenses of the appellate defender program. These costs must be allocated to and paid by the appellate defender program.

[(b) district court expenses related to involuntary commitment proceedings and youth court proceedings in an annual amount not to exceed the district court expense for those proceedings in fiscal year 2001 plus a 3% growth factor each year. Any amount that exceeds the district court expense for those proceedings is the responsibility of the county.]

(4) (a) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall reimburse counties:

(i) in district court criminal cases only, expenses for indigent defense; and

(ii) in proceedings under subsection (1)(e):

(A) expenses for appointed counsel for the youth; and

(B) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.

[(b) If money appropriated for the expenses listed in subsection (4)(a) is insufficient to fully fund those expenses, the county is responsible for payment of the balance.]"

Section 18. Section 3-5-902, MCA, is amended to read:

"3-5-902. Fiscal administration for payment of court expenses. The supreme court administrator shall:

~~—(1) establish procedures for disbursement of funds for payment of district court expenses listed in 3-5-901, including prorating of those funds if they are insufficient to cover all expenses listed in 3-5-901; and~~

~~(2) require the use of a uniform accounting system in accordance with 2-7-504 by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes and record payments at a detailed level for budgeting and auditing purposes."~~

Section 19. Section 3-15-204, MCA, is amended to read:

"3-15-204. Duties of clerk as to jurors. (1) The clerk must shall keep a record of the attendance of jurors and compute the amount due for mileage. The distance from any point to the county seat must be determined by the shortest traveled route.

(2) The clerk must shall give to each juror, at the time ~~he~~ that the juror is excused from further service, a warrant signed by himself the clerk, in which must be stated the name of the juror, the number of days' attendance, the number of miles traveled, and the amount due.

(3) ~~On presentation of such warrant to the county treasurer, the~~ The amount specified in the warrant must be paid ~~out of the general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid out of such fund~~ by the state as provided in 3-5-901 and 3-5-902.

~~(4) The clerk must make a detailed statement containing a list of the jurors and the amount of fees and mileage earned by each and file the same with the clerk of the board of county commissioners on the first day of every regular meeting of the board. No quarterly salary must be paid the clerk until such statement is filed. The board must examine such statement and see that it is correct."~~

Section 20. Section 3-15-205, MCA, is amended to read:

"3-15-205. Costs of impaneling jury. (1) In a civil action before a court of record in which the parties substantially agree to a settlement of the issues prior to impanelment of the jury and either settle the action or stipulate to a continuance and then fail or refuse to inform the court or clerk of court of the settlement or request a continuance and a jury is impaneled, the court may, upon hearing, assess the reasonable public expenses of impaneling the jury, including jury fees and mileage expenses paid or owing under 3-15-201, against any party.

(2) In civil actions, the court may assess against a party the reasonable public expenses of impaneling a jury, including jury fees and mileage expenses paid or owing under 3-15-201, if the court on an issue of law or the jury on an issue of fact determines that the party's case is frivolous or maintained for purposes of harassment. The court shall instruct the jury regarding the provisions of this subsection.

(3) Costs collected under this section must be ~~deposited in the county general fund unless the county has a district court fund. If the county has a district court fund, the costs must be deposited in the district court fund~~ forwarded to the state treasurer for deposit in the state general fund."

Section 21. Section 7-6-2324, MCA, is amended to read:

"7-6-2324. Limitations on appropriations after budget adopted -- exception. (1) The estimates of expenditures, itemized and classified as required in 7-6-2313 and 7-6-2314 and as finally fixed and adopted and as may be amended as provided in 7-6-2320 by the board of county commissioners, constitutes the appropriations for the county for the fiscal year intended to be covered by the estimates.

(2) Except as provided in ~~3-5-404~~, 7-6-2325, and 7-31-2101, the county commissioners and every other county official, including judges of the district court, ~~is~~ are limited in the making of expenditures or incurring of liabilities to the amount of the detailed appropriations and classifications, respectively.

(3) This section does not apply to a county that has adopted the alternative accounting method provided for in Title 7, chapter 6, part 6."

Section 22. Section 7-6-2426, MCA, is amended to read:

"7-6-2426. Enumeration of county charges. (1) The following are county charges:

~~(1)~~(a) charges incurred against the county by virtue of any provision of this title;

~~(2)~~(b) one-half of the salary of the county attorney and all expenses necessarily incurred by ~~him~~ the county attorney in criminal cases arising within the county, except as provided in subsection (2);

~~(3)~~(c) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;

~~(4)~~(d) the board of prisoners confined in jail;

~~(5)~~(e) the accounts of the coroner of the county for ~~such~~ services ~~as~~ that are provided by law;

~~(6)~~(f) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;

~~(7)~~(g) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

~~(8)~~(h) the contingent expenses necessarily incurred for the use and benefit of the county;

~~(9)~~(i) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge.

(2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense committed in the state prison must be paid by the department of corrections as provided in 53-30-110."

Section 23. Section 7-6-2511, MCA, is amended to read:

"7-6-2511. County levy for district certain court expenses. (1) Subject to 15-10-420, the governing body of each county may each year levy and collect a tax on the taxable property of the county for all certain district court costs, except those listed in 3-5-211, 3-5-213, and 3-5-215 as provided in subsection (2). The tax may not exceed 6 mills in the first- and second-class counties, 5 mills in third- and fourth-class counties, and 4 mills in fifth-, sixth-, and seventh-class counties. District court costs

(2) District court costs for which a tax may be levied under subsection (1) are the:

(a) costs of the office of the clerk of district court;

(b) costs of providing office, courtroom, and other space for district court operations under [section 2]; and

(c) contracted costs of supplementing a district court budget, as provided in [section 3], if incurred in the discretion of the county commissioners.

(3) Costs of the office of the clerk of district court include but are not limited to salary and benefits for court clerks, court reporters, youth probation officers clerks of district court, deputy clerks of district court, and other employees of the office of the clerk of district court and expenses of the office.

(4) If remaining funds are available after paying the costs provided for in subsection (2), the county commissioners, in their discretion, may use the remaining funds to pay the expenses of the office of county attorney.

(5) This section may not be construed as a limitation on the authority or ability of a county or district court to apply for, receive, or administer grants from state, federal, or private funds."

Section 24. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-

501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

Section 25. Section 22-1-504, MCA, is amended to read:

"22-1-504. Duties of librarian -- library staff state employees. (1) The librarian shall develop and maintain an adequate collection and services to fulfill the needs of library users and shall establish procedures for the maintenance and control of the collection.

(2) The members of the staff of the state law library, except the librarian, are employees of the judicial branch of state government, are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under [section 1], and must receive state employee benefits and expenses as provided in Title 2, chapter 18."

Section 26. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of ~~the~~ district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) for preparing copies of papers on file in the clerk's office, 50 cents a page for the first five pages of each file, for each request, and 25 cents for each additional page;

- (e) for each certificate, with seal, \$2;
- (f) for oath and jurat, with seal, \$1;
- (g) for a search of court records, 50 cents for each year searched, not to exceed a total of \$25;
- (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);
- (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;
- (j) for transmission of records or files or transfer of a case to another court, \$5;
- (k) for filing and entering papers received by transfer from other courts, \$10;
- (l) for issuing a marriage license, \$30;
- (m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;
- (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;
- (o) for filing a declaration of marriage without solemnization, \$30;
- (p) for filing a motion for substitution of a judge, \$100;
- (q) for filing a petition for adoption, \$75.

(2) Except as provided in subsections (3) ~~through (11)~~ and (5) through (7), ~~32% of all fees collected by the clerk of the district court must be deposited in and credited to the district court fund. If no district court fund exists, that portion of the fees must be deposited in the general fund for district court operations. The remaining portion of the fees must be remitted to~~ forwarded to the state treasurer for deposit in the state general fund.

~~(3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage without solemnization, \$23.60 must be deposited in and credited to the state general fund and \$6.40 must be deposited in and credited to the county general fund.~~

~~(4)(3) (a) Of the fee for filing a petition for dissolution of marriage, \$75 must be deposited in the state general fund, \$5 must be deposited in the children's trust fund account established in 41-3-702, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110, and \$21 must be deposited in and credited to the district court fund. If no district court fund exists, the \$21 must be deposited in the general fund for district court operations.~~

(b) Of the fee for filing a petition for legal separation, ~~\$75 must be deposited in the state general fund,~~ \$5 must be deposited in the children's trust fund account established in 41-3-702, and \$30 must be

deposited in the partner and family member assault intervention and treatment fund established in 40-15-110, and \$20 must be deposited in and credited to the district court fund. If no district court fund exists, the \$20 must be deposited in the general fund for district court operations.

(5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in the district court fund or the county general fund or remitted to the state, the clerk of the district court shall deduct from the following fees the amounts indicated:

(i) at the commencement of each action or proceeding and for filing a complaint in intervention, as provided in subsection (1)(a), \$35;

(ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), \$25;

(iii) on the entry of judgment, as provided in subsection (1)(c), \$15; and

(iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as provided in subsection (1)(m), \$15.

(b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county general fund for district court operations unless the county has a district court fund. If the county has a district court fund, the money must be deposited in that fund.

(6) The fee for filing a motion for substitution of a judge, as provided in subsection (1)(n), must be remitted to the state general fund.

(7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court fund. If no district court fund exists, fees must be deposited in the general fund for district court operations.

(8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each fee collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion of judicial salaries.

(9) (a) The fee for filing a petition for a contested amendment of a parenting plan must be remitted by the clerk of the district court to the credit of the district court to defray the costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and to defray the expense of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a).

(b)(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of the district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

(10)(5) The clerk of district court shall remit to the credit of the special revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q), and \$5 of the filing fee must be deposited in the district court fund. If no district court fund exists, fees must be deposited in the general fund for district court operations.

(11)(6) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9

must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714 and \$1 must be deposited in and credited to the district court fund for mitigation of administrative costs incurred by the court in the collection of the fee. If a district court fund does not exist, the \$1 must be deposited in the county general fund for district court operations.

(7) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund for district court operations."

Section 27. Section 25-1-202, MCA, is amended to read:

"25-1-202. Fee for court reporter Additional filing fee. In addition to other filing fees, a fee of \$20 must be paid to the clerk of ~~the~~ district court at the time of filing a civil action in the district court. The fee must be paid forwarded by the clerk into the treasury of the county where the action is filed, to be applied to the payment of the salary of the reporter to the state treasurer for deposit in the state general fund. The prevailing party may have the amount paid by the prevailing party taxed in the bill of costs as proper disbursements."

Section 28. Section 25-1-1103, MCA, is amended to read:

"25-1-1103. Fee -- duration of certificate. (1) A certificate of registration as a process server must be accompanied by a fee of \$100 at the time the certificate is filed. The fee must be deposited in the county general fund for district court operations, unless the county has a district court fund. If the county has a district court fund, the fee must be deposited in that forwarded by the clerk of district court to the state treasurer for deposit in the state general fund.

(2) A certificate of registration is effective for a period of 2 years from the date of filing. A new certificate must be filed upon expiration of a certificate, and a new registration fee must accompany the new certificate."

Section 29. Section 25-9-506, MCA, is amended to read:

"25-9-506. Fees. (1) Except as provided for in subsection (2), a person filing a foreign judgment shall pay to the clerk of court a fee of \$60.

(2) A person filing a judgment against a customer of a foreign capital depository, as defined in 32-8-103, shall pay to the clerk of court a fee of \$2,500.

(3) Fees for docketing, transcription, or other enforcement proceedings must be as provided for judgments of the district court.

(4) Fees collected by the clerk of district court must be forwarded to the state treasurer for deposit in the state general fund."

Section 30. Section 25-9-804, MCA, is amended to read:

"25-9-804. Filing fee. A person seeking recognition of a foreign judgment rendered in a foreign state against a customer of the foreign capital depository shall pay a filing fee of \$2,500 to the clerk of ~~the~~ court in which the judgment is filed. Fees collected by the clerk of district court must be forwarded to the state treasurer for deposit in the state general fund."

Section 31. Section 27-9-103, MCA, is amended to read:

"27-9-103. Filing and costs -- district court. The statement must be filed with the clerk of ~~the~~ court in which the judgment is to be entered, who shall endorse upon it and enter in the judgment book a judgment of the court for the amount confessed, with \$45 costs. The clerk of ~~the~~ district court shall ~~deposit the fee in the district court fund. If no district court fund exists, the fee must be deposited in the general fund for district court operations~~ forward the costs to the state treasurer for deposit in the state general fund."

Section 32. Section 40-4-215, MCA, is amended to read:

"40-4-215. Investigations and reports. (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of cash assistance under the temporary assistance for needy families block grant, FAIM financial assistance, as defined in 53-2-902, food stamps, or public assistance and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid ~~from the fees for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9)~~ by the state as provided in 3-5-901.

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

- (a) parenting education;
- (b) mediation pursuant to 40-4-301;
- (c) factfinding by the investigator; and
- (d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has

information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child has reached the age of 16 unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 33. Section 40-4-226, MCA, is amended to read:

"40-4-226. Court-sanctioned educational program on effects of dissolution of marriage on children. (1) In a proceeding for dissolution of marriage involving a minor child or in a parenting plan proceeding involving a minor child, a court shall inform the parties, excluding the minor child, of available educational programs concerning the effects of dissolution of marriage on children and, if the court finds that it would be in the best interest of the minor child, shall order the parties to attend a court-sanctioned program. The program may be divided into sessions. The program must be educational in nature and may not be designed for individual therapy.

(2) The cost of implementing the court-sanctioned educational program for each district court, provided for in subsection (1), must be paid ~~from the fees for filing petitions for contested amendment of a parenting plan, provided for in 25-1-201(9)~~ by the state as provided in 3-5-901. Costs may include parenting evaluation and guardian ad litem services."

Section 34. Section 41-5-1701, MCA, is amended to read:

"41-5-1701. Appointment of juvenile probation officers. (1) The youth court judge of each judicial district shall appoint such necessary probation officers ~~as are required to carry out the purpose and intent of~~, deputy probation officers, and part-time probation officers necessary to administer this chapter. ~~He shall appoint such part-time probation officers as shall be required.~~ The qualifications for part-time probation officers must approximate those required for probation officers insofar as possible. A chief probation officer must be appointed by the judge to supervise the youth division offices in the judicial district. The judge shall also ~~insure~~ ensure that the youth division offices are staffed with necessary office personnel and that the offices are properly equipped to effectively carry out the purpose and intent of this chapter. ~~No~~ A person while serving as a law enforcement officer may not be appointed or perform the duties of a full-time or part-time probation officer.

(2) All probation officers and youth division office staff hired or appointed under subsection (1) are employees of the judicial branch of state government. The employees are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under [section 1] and must receive state employee benefits and expenses as provided in Title 2, chapter 18."

Section 35. Section 41-5-1702, MCA, is amended to read:

"41-5-1702. Qualifications of probation officers. (1) Any person appointed as a chief probation officer must have the following qualifications:

(a) a master's degree in the behavioral sciences;

(b) a bachelor's degree from an accredited college or university in the behavioral sciences and at least 1 year's experience in work of a nature related to the duties of a probation officer as set forth in 41-5-1703; or

(c) a bachelor's degree in any field and at least 3 years' experience in work related to the duties of a probation officer as set forth in 41-5-1703.

(2) The judge may appoint any reputable person as a probation officer who has had experience in work of a nature related to the duties of a chief probation officer, provided. However, preference must be given to persons with the qualifications set forth in subsection (1).

(3) Each person appointed as a chief probation officer ~~or~~, probation officer under this section, or ~~as a~~ deputy probation officer under 41-5-1705 must shall obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers in a program or course conducted by the department of justice or approved by the board of crime control under 41-5-1706."

Section 36. Section 41-5-1706, MCA, is amended to read:

"41-5-1706. Juvenile probation officer training. (1) The department of justice may conduct a 40-hour juvenile probation officer basic training program and other training programs and courses for juvenile probation officers. A 40-hour juvenile probation officer basic training program and other training programs and courses for juvenile probation officers may be offered by another public agency or by a private entity if the program or course is approved by the board of crime control. If funding is available, the department shall conduct a 40-hour basic training program once a year.

(2) A juvenile probation officer who successfully completes the 40-hour basic training program or another program or course must be issued a certificate by the board.

(3) A juvenile probation officer is entitled to the officer's salary and expenses, as provided in 2-18-501 through 2-18-503, while attending a program or training course and must be paid by the district court, expenses as provided in 2-18-501. The court shall also pay any program or course registration fee.

(4) The board may adopt rules to implement this section."

Section 37. Section 41-5-1707, MCA, is amended to read:

"41-5-1707. Designation of assessment officers -- ~~qualifications -- salary -- duties.~~ (1) The youth court judge of each judicial district may appoint and supervise ~~the necessary~~ assessment officers ~~as are required to carry out the purpose and intent of necessary to administer this chapter. The qualifications for assessment officers must be established by the appointing judge. Assessment officers are county employees, and assessment officers' salaries must be fixed by the judge. An assessment officer may work out of the local police department or other local law enforcement office.~~ Assessment officers appointed under this section are employees of the judicial branch of state government. The employees are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under [section 1] and must receive state employee benefits and expenses as provided in Title 2, chapter 18.

(2) An assessment officer shall perform the duties set out in 41-5-1201 and 41-5-1302.

(3) Proceedings under 41-5-1201 and 41-5-1302 that are held prior to adjudication satisfy the requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974. Montana school districts may release education records to assessment officers. The assessment officer is responsible for ensuring that officials and authorities to whom ~~such~~ that information is disclosed certify in writing to the school district that is releasing the education records that the education records or information from the education records will not be disclosed to any other party without the prior written consent of the parent of the student."

Section 38. Section 42-2-105, MCA, is amended to read:

"42-2-105. Fees for services -- special revenue account -- statutory appropriation. (1) The department shall establish fees that it may charge and that are reasonably related to the cost incurred by the department in completing or contracting for adoption services.

(2) The department may contract with licensed social workers or licensed child-placing agencies for the purposes of completing the preplacement or postplacement evaluation or for providing postplacement supervision.

(3) An agency contracting to perform the services may set and charge a reasonable fee commensurate with the services provided.

(4) There is an adoption services account in the state special revenue fund. The fees collected by the department under this title and from the district court filing fee pursuant to 25-1-201(1)(a)(5) must be deposited into this account and may be used by the department for adoption services. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department."

Section 39. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment. When a defendant is sentenced to pay the costs of court-

appointed counsel, the court may order payment to be made within a specified period of time or in specified installments. Payments must be made to the clerk of ~~the~~ district court. The clerk of the district court shall ~~distribute~~ forward the payments to the government agency responsible for the expense of court-appointed counsel as provided for in 46-8-201 state treasurer for deposit in the state general fund."

Section 40. Section 46-8-201, MCA, is amended to read:

"46-8-201. Remuneration of appointed counsel. (1) Whenever in a criminal proceeding an attorney represents or defends any person by order of the court on the ground that the person is financially unable to employ counsel, the attorney must be paid for the services a sum as a judge or justice of the state supreme court certifies to be a reasonable compensation and be reimbursed for reasonable costs incurred in the criminal proceeding.

(2) The expense of implementing subsection (1) is chargeable as provided in 3-5-901 to the county in which the proceeding arose, must be paid by the state as provided in 3-5-901, or both, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; or

(b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of the department of justice and the charge is prosecuted by personnel of the state agency that made the charge, the expense must be borne by the prosecuting state agency."

Section 41. Section 46-8-202, MCA, is amended to read:

"46-8-202. Public defender's office. Any county through its board of county commissioners may provide for the creation of a public defender's office and the appointment of a salaried public defender and such assistant public defenders ~~as~~ that may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of such the office shall must be at state expense payable according to procedures established under 3-5-902(1) 3-5-901(4) and, to the extent those costs are not paid by the state, at county expense in accordance with 3-5-901(3)(4) and 3-5-902(1)."

Section 42. Section 46-11-319, MCA, is amended to read:

"46-11-319. Expenses of grand jury. (1) Except as provided in subsection (2), all expenses of the grand jury, including expenses for special prosecutors, experts, investigators, and interpreters, if any, must be paid by the county. The treasurer of the county shall pay the expenses out of the general fund of the county or out of the district court fund, if any, upon warrants drawn by the county auditor or by the clerk of ~~the~~ district court upon a written order of the judge of the district court of the county.

(2) If the county has a district court fund, all expenses of a grand jury must be paid out of that fund.

(3)(2) Subject to the procedures established by law, the state shall reimburse the court for The state

shall pay the expenses of juror and witness fees and witness expenses. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in that fund as provided in 3-5-901 and 3-5-902."

Section 43. Section 46-14-202, MCA, is amended to read:

"46-14-202. Examination of defendant. (1) If the defendant or the defendant's counsel files a written motion requesting an examination or if the issue of the defendant's fitness to proceed is raised by the district court, prosecution, or defense counsel, the district court shall appoint at least one qualified psychiatrist or licensed clinical psychologist or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist or licensed clinical psychologist, which designation may be or include the superintendent, to examine and report upon the defendant's mental condition.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding 60 days or a longer period as that the court determines to be necessary for the purpose and may direct that a qualified psychiatrist or licensed clinical psychologist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination, any method may be employed that is accepted by the medical or psychological profession for the examination of those alleged to be suffering from mental disease or defect.

(4) If the defendant is indigent or the examination occurs at the request of the prosecution, the cost of the examination must be paid by the county or the state, or both, according to procedures established under 3-5-902(1) as provided in 3-5-901."

Section 44. Section 46-14-221, MCA, is amended to read:

"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses. (1) The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence upon the issue.

(2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate institution of the department of public health and human services for so long as the unfitness endures.

(b) The institution shall develop an individualized treatment plan to assist the defendant to gain fitness to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan, the institution may petition the court for an order requiring compliance. The defendant has a right to a hearing on the petition. The court shall enter into the record a detailed statement of the facts upon which an order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record specific findings that the state has proven proved an overriding justification for the order and that the treatment being ordered is medically appropriate.

(c) The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the defendant must be dismissed, except as provided in subsection (4), and the prosecutor shall petition the court in the manner provided in chapter 20 or 21 of Title 53, chapter 20 or 21, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because the defendant has a developmental disability as provided in 53-20-102(5), the proceeding against the defendant must be dismissed and the prosecutor shall petition the court in the manner provided in chapter 20 of Title 53, chapter 20.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution that is susceptible to fair determination prior to trial and that is made without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate institution of the department of corrections, of keeping the defendant there, and of bringing the defendant back are chargeable to payable by the state and payable according to procedures established under 3-5-902(1) as a district court expense."

Section 45. Section 46-15-116, MCA, is amended to read:

"46-15-116. Fees, costs, and expenses. (1) When a person attends before a judge, grand jury, or court as a witness in a criminal case upon a subpoena, the witness shall must receive the witness fee prescribed by Title 26, chapter 2, part 5. The court, on motion by either party, may allow additional fees for expert witnesses.

(2) The court may determine the reasonable and necessary expenses of subpoenaed witnesses and order the clerk of the court to pay the expenses from the appropriate city or county treasury.

(3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from another state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem, the sum equal to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to travel and attend as a witness. If the state where the witness is found has by statutory enactment required that the subpoenaed witness be paid an amount in excess of the amount specified in this section, the witness may be paid the amount required by that state.

(4) According The witness fees, costs, and expenses must be paid by the state according to procedures required by the supreme court administrator, under 3-5-902, the clerk of the district court shall submit to the administrator a detailed statement containing a list of witnesses and the amount of expenses paid to each witness by the county. Upon receipt and verification of the statement, the administrator shall promptly reimburse the designated county for all or a portion of the witness expenses. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in the district court fund."

Section 46. Section 46-18-235, MCA, is amended to read:

"46-18-235. Disposition of money collected as fines and costs. The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 must be paid:

(1) by a the clerk of district court to the county general fund of the county in which the court is held, except that:

(a) if the costs assessed include any district court expense listed in 3-5-901, the money collected from assessment of these costs must be paid to the:

(a) the state treasurer for deposit into the state general fund to the extent that the expenses were paid by the state; and or

(b) if the fine was imposed for a violation of Title 45, chapter 9 or 10, the court may order the money paid into and at the court's discretion, the drug forfeiture account maintained under 44-12-206 for the law enforcement agency that made the arrest from which the conviction and fine arose; and

(2) by a justice's court pursuant to 3-10-601."

Section 47. Section 46-18-603, MCA, is amended to read:

"46-18-603. Disposition of fines and forfeitures. All fines and forfeitures collected in any court except city courts must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred. After such those costs are paid, the residue remainder, if not paid to a justice's court or otherwise provided by law, must be paid to the county treasurer of the county in which the court is held and by him credited as provided by law. If the fine or forfeiture is paid to the county treasurer, at the time of such payment there shall be filed with the county treasurer a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action. The statement shall give the title of the cause and be subscribed by the person or officer making such payment forwarded to the state treasurer for deposit in the state general fund."

Section 48. Section 52-6-105, MCA, is amended to read:

"52-6-105. Funding. (1) Revenue from the marriage license fee and the fee collected for filing a declaration of marriage without solemnization is the primary source of funding for the battered spouses and domestic violence program. The disposition of the marriage license fee is as established in 25-1-201

(2) Twenty percent of the operational costs of a battered spouses and domestic violence program must come from the local community served by the program. The local contribution may include in-kind contributions."

Section 49. Section 53-9-104, MCA, is amended to read:

"53-9-104. Powers and duties of division. (1) The division shall:

- (a) adopt rules to implement this part;
- (b) prescribe forms for applications for compensation;
- (c) determine all matters relating to claims for compensation; and

(d) require any person contracting directly or indirectly with an individual formally charged with or convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie, television production, play, or article relating to such the crime to deposit any proceeds paid or owed to the individual under the terms of the contract into an escrow fund for the benefit of any victims of the qualifying crime and any dependents of a deceased victim, if the individual is convicted of the crime, to be held for such a period of time as that the division may determine is reasonably necessary to perfect the claims of the victims or dependents. Deposited proceeds may also be used to pay the costs and attorney fees of court-appointed counsel for the charged person. Each victim and dependent of a deceased victim is entitled to his actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds remaining after payments to victims, dependents of deceased victims, and the county as reimbursement state for any public defender or any attorney appointed for the charged person must be deposited in the account established in 53-9-109.

(2) The division may:

(a) request and obtain from prosecuting attorneys and law enforcement officers investigations and data to enable the division to determine whether and the extent to which a claimant qualifies for compensation. A statute providing confidentiality for a claimant's juvenile court records does not apply to proceedings under this part.

(b) request and obtain from a health care provider medical reports that are relevant to the physical condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment information that is relevant to expenses claimed by a claimant, provided that if the division has made reasonable efforts to obtain from the claimant a release of the records or information. No civil or criminal liability arises from the release of information requested under this subsection (2)(b).

(c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings, and receive relevant, nonprivileged evidence;

- (d) take notice of judicially cognizable facts and general, technical, and scientific facts within its specialized knowledge;
- (e) require that law enforcement agencies and officials take reasonable care that victims be informed about the existence of this part and the procedure for applying for compensation under this part; and
- (f) establish a victims' assistance coordinating and planning program."

Section 50. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of taxes. (1) All registration fees imposed by 61-3-561 from light vehicles, all registration fees imposed by 61-3-522 from motor homes, all fees in lieu of tax imposed by 61-3-527 from motorcycles and quadricycles, and all fees imposed by 61-3-529 from buses, motor vehicles having a manufacturer's rated capacity of more than 1 ton, and truck tractors, for which a license is sought and an original application for title that includes a manufacturer's statement of origin is made, must be remitted to the state treasurer every 30 days. The state treasurer shall credit the payments to the highway restricted state special revenue account.

(2) Except as provided in subsections (1) and (3), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles, registration fees on light vehicles, and fees in lieu of tax on motorcycles, quadricycles, motor homes, travel trailers, campers, trailers, pole trailers, semitrailers, buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors collected under 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 61-3-560 through 61-3-562 to a motor vehicle suspense fund. At some time between March 1 and March 10 of each year and every 60 days after that date, the county treasurer shall distribute the money in the motor vehicle suspense fund. Except for registration fees collected under 61-3-560 through 61-3-562, the county treasurer shall distribute the money in the fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed. For money in the fund collected under 61-3-527 and 61-3-560 through 61-3-562, the county treasurer shall disregard the statewide mills levied for the university system, county elementary and high school equalization under 20-9-331 and 20-9-333, the mills levied for state equalization aid under 20-9-360, and the mills levied for state assumption of public assistance under 53-2-813 in determining distribution proportions of the money and may not distribute money collected under 61-3-527 and 61-3-560 through 61-3-562 to the state for those levies.

(3) The county treasurer shall deduct as a district court fee 10% of the amount of the registration fee collected on light vehicles under 61-3-560 through 61-3-562. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time that the county treasurer distributes money from the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the state special revenue general fund to be used for purposes of state funding of district court expenses costs as provided in 3-5-901."

Section 51. Transition. The provisions of 2-15-131 through 2-15-137 apply to [this act].

Section 52. Repealer. (1) Sections 3-5-404, 3-5-903, 7-6-2352, 7-6-2427, 7-6-2428, 25-2-205, 41-5-1704, and 41-5-1705, MCA, are repealed.

(2) Section 3-5-404, MCA, is repealed.

Section 53. Codification instruction. (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 3, chapter 1, part 1, and the provisions of Title 3, chapter 1, part 1, apply to [sections 1 through 3].

(2) [Sections 4 through 8] are intended to be codified as an integral part of Title 3, chapter 1, and the provisions of Title 3, chapter 1, apply to [sections 4 through 8].

Section 54. Coordination instruction. (1) If House Bill No. 124 is not passed and approved, then [sections 1 through 51, 53, 55 through 62, 64, and 65 of this act] are void and [section 52 of this act] is amended to read:

"NEW SECTION. **Section 52. Repealer.** Section 3-5-404, MCA, is repealed."

(2) If Senate Bill No. 144 and [this act] are both passed and approved, then 61-3-509(3) in [this act] is amended to read:

"(3) The county treasurer shall deduct as a district court fee 10% of the amount of the registration fee collected on light vehicles under 61-3-560 through 61-3-562. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer department of revenue at the time that the county treasurer distributes money from the motor vehicle suspense fund. The state treasurer department of revenue shall credit amounts received under this subsection to the state special revenue general fund to be used for purposes of state funding of district court expenses costs as provided in 3-5-901."

(3) If House Bill No. 62 and [this act] are both passed and approved, then House Bill No. 62 is void.

(4) If Senate Bill No. 66 and [this act] are both passed and approved, then 3-5-901(2)(a) in [this act] is amended to read:

"(2) For the purposes of subsection (1), district court costs do not include:

(a) the percentage of the salaries of county attorneys payable by counties under 7-4-2503;".

(5) If Senate Bill No. 386 and [this act] are both passed and approved, then 52-5-109(1) in Senate Bill No. 386 is amended to read:

"(1) The expenses of committing a youth to the department or to the youth court must be borne by the committing youth court."

Section 55. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 56. District court council -- implementation of staggered terms. (1) The members of the district court council, other than the chief justice of the supreme court or the designee of the chief justice, must be elected or appointed as follows:

(a) one district court judge and juvenile probation officer to terms that begin July 1, 2001, and expire June 30, 2004;

(b) one district court judge and clerk of district court to terms that begin July 1, 2001, and expire June 30, 2003;

(c) two district court judges, a county commissioner, and a court reporter to terms that begin July 1, 2001, and expire June 30, 2002.

(2) After expiration of the original terms established by this section, the succeeding terms must be 3-year terms.

Section 57. Transition -- transfer of county employees to state employment -- preservation of rights. (1) District court employees who are employed by the county on June 30, 2002, and who are transferred to state employment by [this act] become state employees on July 1, 2002, except for purposes of application of the judiciary branch personnel plan, as provided in [section 63].

(2) The compensation of former county employees who become state employees under [this act] may not be impaired. This subsection does not preserve the right of any former county employee to any salary or compensation, including longevity benefits, that was payable while the employee was employed by the county and that was not accrued and payable as of June 30, 2002.

(3) An employee who is transferred from county employment to state employment under [this act] may elect to become a member of the state employee benefit plan on July 1, 2002, or remain on the employee's county benefit plan through the remainder of the plan year in effect on June 30, 2002. For an employee who elects to remain on a county benefit plan, the monthly state contribution toward insurance benefits must be transferred to the county benefit plan. Any benefit costs in excess of the state contribution must be paid by the employee.

(4) Accumulated sick and vacation leave and years of service with a county must be transferred fully to the state as of July 1, 2002, and become an obligation of the state at that time. Any liability for accumulated compensatory time of employees who are transferred from county employment to state employment under [this act] is not transferred to the state and remains an obligation of the county that employed the employee prior to the transfer, subject to federal law and the county's personnel policies.

(5) The state becomes a successor employer with regard to any collective bargaining agreement existing on July 1, 2002, that prior to July 1, 2002, covered any employee transferred from county employment to state employment by [this act]. The responsibilities and obligations of the parties to an

agreement to which the state becomes a successor employer must, as applied to a transferred employee, continue until the expiration date of the agreement.

(6) In the development of a plan of personnel administration for employees of the judicial branch, the supreme court may recognize an appropriate bargaining unit.

Section 58. Rights to property. A district court that becomes state-funded under [this act] retains the rights to all personal property relating to the functions of the court. The property includes records, office equipment, computer equipment, supplies, contracts, books, papers, documents, maps, grant and earmarked account balances, vehicles, and all other similar property. However, the district court may not use or divert money in a fund or account for a purpose other than as provided by law. The county commission and the court administrator shall resolve any conflict as to the proper disposition of property. There is no appeal from the decision of the administrator and county commission regarding disposition of property under this section. This section does not apply to property owned by the federal government.

Section 59. Transition -- delayed application of judicial branch personnel plan -- salaries for FY 2003. (1) All judicial branch employees, including district court employees, become subject to the judiciary branch personnel plan adopted by the supreme court, as required by [section 1], on July 1, 2003.

(2) During fiscal year 2003, each district court employee who was a former county employee and who becomes a state employee under [this act] is entitled to the person's salary and compensation, including longevity payments, that the person is entitled to on June 30, 2002. In addition, the person is entitled to an increase equal to the average pay increase for judicial branch employees if any pay increase is granted for fiscal year 2003.

(3) An employee's compensation may not be reduced by transfer to the judicial branch personnel plan. If application of the judicial branch personnel plan would reduce an employee's compensation, the employee shall remain at the compensation earned at the time of transfer until compensation under the plan requires an increase in the employee's compensation.

Section 60. Transition -- purchase of court reporters' equipment. The state may:

(1) during fiscal year 2003, on a one-time basis, offer to purchase reporting and transcription equipment from a court reporter who becomes a state employee under 3-5-601(2)(a); or

(2) offer to purchase the equipment of a court reporter who becomes a state employee under 3-5-601(2)(b) under guidelines adopted by the supreme court and recommended by the district court council under [section 5].

Section 61. Guarantee share. (1) (a) For fiscal year 2003, the district court council shall calculate

each judicial district's fixed budget component and variable budget component. The council shall determine the statewide percentage that the statewide district court fixed budget component is to the statewide total district court budget. The council shall take that percentage of the total district court appropriation and allocate that percentage among each judicial district in proportion to each judicial district's fixed budget component of the total district court fixed budget component.

(b) The remainder of the district court appropriation after the allocations required by subsection (1) (a) is the variable budget. The variable budget must be allocated during the year among the judicial districts based upon caseload need and other factors as determined by the district court council.

(2) As used in this section:

(a) "fixed budget component" means a district court's costs that are not variable with caseload based on the fiscal year 1999 FTEs and estimated vacancy savings, plus estimated costs associated with the three judgeships created by Chapter 454, Laws of 1999, and related operating costs, including but not limited to salaries for permanent employees of the court and the costs of contracted professional services.

(b) "variable budget component" means a district court's costs that are variable with caseload, including but not limited to witness fees and necessary expenses, juror fees, and indigent defense costs.

Section 62. Direction to district court council. The district court council provided for in [section 5] shall address any inequities in disbursements of district court expenses for involuntary commitment proceedings and youth court proceedings and shall present to the 58th legislature a proposal to enumerate specific expenses of those proceedings that are recommended to be designated as district court expenses in 3-5-901.

Section 63. Effective dates. (1) [Sections 21, 52(2), 53 through 55, 64, and 65 and this section] are effective on passage and approval.

(2) [Sections 1, 4 through 8, and 62] are effective July 1, 2001.

(3) [Sections 2, 3, 9 through 20, 22 through 51, 52(1), and 56 through 61] are effective July 1, 2002.

Section 64. Applicability. The judiciary branch personnel plan adopted under [section 1] applies to fiscal years beginning July 1, 2003.

Section 65. Termination. [Section 62] and the bracketed language in 3-5-901(3) and (4) terminate June 30, 2003.

- END -

Latest Version of SB 176 (SB0176.ENR)

Processed for the Web on April 26, 2001 (12:52PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.
See the status of this bill for the bill's primary sponsor.

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Prepared by Montana Legislative Services

(406)444-3064

HEARING ON SB 176

Sponsor: SEN. WALT McNUTT, SD 50, SIDNEY

Proponents: Kurt Alme, Director of Department of Revenue
Gordon Morris, Director of MACo
Gary Fjelstad, President of Montana
Association of County Officials
Ron Alles, Chief Administrative Officer with
Lewis & Clark Co.
Jim Regnier, Justice of the Montana Supreme
Court
AnnMary Dussault, Missoula County Chief
Administrative Officer
Joe Connell, representing self

Opponents: Ed McLean, President of the Montana Judges
Association
Gene Fenderson, MT District Council of
Laborers
Dave O'Connell, representing self
Roberta Drew, Billings Public Defender

Opening Statement by Sponsor:

SEN. WALT McNUTT, SD 50, SIDNEY, opened on SB 176 saying it was the result of an interim committee. The committee was established by SB 184 during the 1999 Legislative session. He provided a report done by the committee, EXHIBIT(jus23a01), *Simplification in the 21st Century*. A bill synopsis also was provided for the committee to consider, EXHIBIT(jus23a02). He said it was not the first attempt at restructuring the District Court system to include a state assumption. He also noted that the constitution allowed for the restructuring. He said underlying, compelling reasons made the interim committee bring forward a bill this session: 1) the system was underfunded, compartmentalized, suffered from some of the same inequities that lead to the School Foundation Program's unconstitutional status by the Montana Supreme Court. Also, the District Court program was funded by 57 different sources of money; not all equal. 2) MACo adopted a resolution to adopt this program. The resolution could be found on page 3 of exhibit 1. He said the bill set forth a District Court plan to establish it as a state court system. He read the committee's recommendations found on page 1 of exhibit (1). He reported the committee made a good-faith effort during

their two years and were able to reach consensus and develop a program, something the other two attempts had failed to do. The Department of Revenue, the Supreme Court, and other agencies were able to come together this time.

Proponents' Testimony:

Kurt Alme, Director of Department of Revenue, reported the governor's office was still considering the bill, but supported the goals behind the proposal because of the adequate and relatively constant revenue and timely and uniform judicial services for individuals and businesses.

Gordon Morris, Director of MACo, emphasized page 3 of the report booklet, **exhibit (1)**, explaining MACo's resolution. He believed the comments on pages 4 and 5 warranted review by the Judiciary. He thought the issues were straightforward. He provided a handout in reference to 3-5-404, **EXHIBIT(jus23a03)**, so that the Judiciary could add that section to the repealers of the bill. He noted the bill asked for 3 or 4 repealers and he recommended 3-5-404 be added to those to get it off the books. The case notes attached to **exhibit (3)** pointed out some of the problems local governments encountered in terms of District Court in general. Also, he emphasized commissioners' discretion in providing supplemental funds to the District Court through a contract with the Supreme Court Administrator. The important point was the commissioner discretion that they MAY supplement the District Court budget operation. He suggested that section could be strengthened if it remained at their discretion and not court ordered.

Gary Fjelstad, President of Montana Association of County Officials, said the membership encouraged support of SB 176.

Ron Alles, Chief Administrative Officer with Lewis & Clark Co., said the county supported the bill and that the report was well crafted. By allowing commissioner's to supplement the District Court Funding, it allowed continuation of some youth programs that individual counties had established. Also, union employees currently fell under District Court funding and the committee recognized that those employees were allowed to do that.

Jim Regnier, Justice of the Montana Supreme Court, identified himself as an informational witness. The bill removed the state law librarian as an appointee of the court. According to the Supreme Court, the court administrator and the law librarian should remain as court appointed employees. He referred to page 16 of the bill, the amendment to section 22-1-504. The Court

recommended striking the word "librarian" following the title and substituting "library". Then in subsection 2, striking "librarian and other", and adding, "except the librarian" It would read: "The staff of the state law library, except the librarian, are. . ." Consistent with the changes, new section 1 of the bill, page 1, would then include the librarian along with the rest of the list of exempt employees. These amendments would then be consistent with other statutes, specifically, 22-1-503 sub2.

AnnMary Dussault, Missoula County Chief Administrative Officer, mentioned that while she was a representative in 1977, she carried the judicial branch section of HB 122 and the recommendation was to have state District Courts assumed by the state for administration of that system. As a member of the Missoula County Commission and now as the chief administrator, she understood increasing demands on counties. Added to that was the District Court's ability to use, "power of the order". She pointed out that 3-5-404, **exhibit (3)**, was passed in 1895, and not only called on the sheriff to provide space, but it also was all inclusive to provide the "stuff" needed for that space. She reiterated that it needed to be repealed. Two examples of how the "power" was used: 1) salary, as seen in **EXHIBIT(jus23a04)**, cost of District Court orders, 2) bills for space in the broader sense, **EXHIBIT(jus23a05)**. The salary requested was greater than the county matrix. The bill for parking was actually never implemented. The cover letter was never discussed with the County Commissioners, nor her, the Chief Administrative Officer. These examples emphasized why it would be good policy, good administration, and good accountability for the state to assume the District Court system under the authority of the Supreme Court.

Joe Connell, representing self, identified himself as a Chief Probation Officer in the 5th Judicial District. He was involved with the interim committee and believed this effort was more favorable than anything in the past. It provided relief to the counties and insured that those who worked in prevention, early intervention programs, and other pre-delinquent projects would be assured of the programs' continuation. He mentioned the probation officers who were not paid a fair and just salary, but had the same legal and administrative responsibilities as those in large urban districts.

Opponents' Testimony:

Ed McLean, President of the Montana Judges Association, felt SB 176 was a good start, but more work was needed. He wanted to work

another two years on the project for unanimous support. One of the big problems between the judiciary branch and the county involved space needs. Some of these problems even had been addressed by the Montana Supreme Court.

{Tape : 1; Side : B}

Currently court reporters transcribed at home or in rented offices. SB 176 required counties to provide and pay for that space. Likewise, two counties, Yellowstone and Missoula Counties provided space for the public defender, SB 176 required all counties to provide that space. To illustrate, Flathead County had six public defenders providing their own space, but that cost would be absorbed by the county after SB 176. Many counties simply did not have the space to provide. Some judges in western Montana, as well as the Court Reporters Association, opposed the bill and asked him to carry that message and ask for a table motion to allow further study. He acknowledged it was a qualified opposition because with further study, it could have unanimous support.

Gene Fenderson, MT District Council of Laborers, said Local 254, juvenile probation officers and other employees of that operation, opposed at least new section 56 of SB 176 regarding collective bargaining agreements and those protections. They were concerned that they be allowed to unionize, and not put under a different bargaining agreement under authority of the Board of Personnel Appeals of the state. It was believed changes could ruin the relationships and protections established and negotiated over the years. He also mentioned the ability of the juvenile probation office to gain outside grants. It was feared that SB 176 could take away that avenue for funding.

Dave O'Connell, representing self, provided testimony in opposition, EXHIBIT(jus23a06).

Roberta Drew, Billings Public Defender, believed that the intent of the legislation was good, but they were specifically concerned with the commissions, duties, and rules of public defenders. They felt commissioned defense attorneys should be experienced criminal defense attorneys, but also be specifically experienced in indigent offense. They agreed with the minimum standards, but a commission that was voluntary in nature would not have the necessary time to develop standards, especially in light of the fact that currently Montana only had 5 established public defenders offices. Having a paid director for the Commissioner of the Public Defenders would be the only way to ensure efficiency, but it was not provided under the legislation. While judicial

branch employees would have protected salaries, public defenders would not have those protections under the legislation.

Questions from Committee Members and Responses:

SEN. MIKE HALLIGAN asked for the numbers regarding the fiscal impact. Gordon Morris, Director of MACo, said the numbers could be found in the report, exhibit (1). The coordination instructions were not included in the report because the funding for the proposal was contained in HB 124. The estimated amount, \$20,800, 000, left the Clerk of Courts and all those staffs under county responsibility, all else would go to the state. The cost associated with the transfer was covered under the assumption that the amount would be netted out against the county entitlement calculation under HB 124.

SEN. HALLIGAN wondered what would be retained by the county in terms of funding flexibility; would the 4 or 6 mills of the District Court be freed up for the county to use at its discretion. Mr. Morris said that was the intent. It would remain the authority of the county commissioners. The money could fund the Clerk of Courts function as well as the counties' half of the deputy county attorney's salary, and other District Court funding matters.

SEN. HALLIGAN clarified the motor vehicle half percent money source. Mr. Morris said the bill didn't touch that. It would remain a local option. That percent could be used with the commissioners discretion for any other county purpose. The motor vehicle money in HB 124 was requested to go to the state and the court would continue to get the 9 percent from the District Court grant program out of the motor vehicle money. That would continue to go into the program.

SEN. HALLIGAN noticed that page 12, line 9 removed space provisions. Who was assuming it? Mr. Morris said it was a troublesome area to cost it out and put it into a bill. MACo recommended that it would be worked out with the Supreme Court administrator over the interim. The counties would assume the responsibility of providing space as they did currently. Therefore, the court order notion had to be dealt with carefully.

SEN. HALLIGAN asked if the committee talked about 3-5-404, which wasn't discussed in the bill, but was brought up as a big issue. Mr. Morris felt the committee couldn't come up with an appropriate solution. It was entangled in the Constitutional

issue. Therefore, repealing the section would be the best thing to do.

SEN. HALLIGAN questioned if the librarian issue was a big concern. **SEN. McNUTT** said it could have been an oversight. He also said that 3-5-404 was discussed, but language was not agreed upon. Therefore, they felt more public participation would be beneficial.

CHAIRMAN LORENTS GROSFIELD questioned the judge's opinion on repealing 3-5-404. **Ed McLean, President of the Montana Judges Association**, felt this addressed the issue between the counties regarding space needs. He felt the space should remain a county obligation.

CHAIRMAN GROSFIELD wondered about the pay issue and the court ordering higher wages than other county staff. He felt it caused problems and asked for comment on it. **Mr. McLean** said it was an accurate comment and created ill-will within the county. The fault was two-fold: 1) judge issuing orders that brought their employees outside the parameter of other county employees. 2) Judges, at least in Missoula County, agreed to follow the county personnel plan; however, they implemented a pay raise for court employees for one year only. The following year, the court employees didn't receive it because a court order had not requested it. It established a practice that lacked communication between county commissioners, the human resource office, and the District Court Judges.

CHAIRMAN GROSFIELD mentioned that a few years ago, county assessors became state employees and maybe some of the issues were the same. He asked for another opinion on the matter. **Mr. Morris** said even under the bill, potential for ill-will could occur because employees would be moved off the county compensation schedule and placed on the state schedule. For the most part, the employees would then receive more. That was a friction point, but it needed to be addressed.

CHAIRMAN GROSFIELD asked how statewide commissioners would feel about inserting a statement regarding space issues. **Mr. Morris** said section 2 of the bill stated "each county or consolidated city/county should provide . . ." It could be tightened and language could require a way to mediate disputes that could arise over space needs. It would also be appropriate to include his issue of court orders within that section.

- {Tape : 2; Side : A}

SEN. RIC HOLDEN said it appeared that public defenders would benefit and wondered about the opposition. **Roberta Drew, Billings Public Defender**, said she was mostly concerned with the commission and how it was being set-up. She had researched how some other states operated, and it looked like a paid director would be the best way to proceed to handle the diversity of Montana's cases. A full-time committed person would provide leadership and stability to the commission. The bill asked for a commission to establish statewide defense standards. Public defenders supported minimum standards for indigent defense, but it would take time to research and develop those standards. It took six months of debate to establish death penalty case standards. In light of that, the bill was a good starting point, but it needed to be further studied.

SEN. HOLDEN clarified that smaller counties did not have full-time public defenders. **Ms. Drew** agreed. They were on a contract basis, however, the bill allowed the counties to establish full-time offices.

SEN. HOLDEN questioned the funding for the bill if HB 124 died.

SEN. McNUTT replied that SB 176 could not pass without the house bill. He corrected the cost amount, \$24,800,000, not \$20,800,000.

SEN. DUANE GRIMES questioned why the bill was brought forward in 1977. **AnnMary Dussault, Missoula County Chief Administrative Officer**, said HB 122 was a product of the new Constitution passed in 1973 to implement the local government articles. However, that was never accomplished; local governments still operated under the old Constitution provisions. The funding mechanism in HB 122 was significantly different than SB 176. The state would have assumed the total burden for the costs of the District Court. SB 176 called for the funding to come from local resources with the current state resources continuing to go to District Court. The other major difference had the Clerk of the District Court included in HB 122, they're excluded in SB 176.

SEN. HALLIGAN questioned a court reporter about the various options regarding how the job was categorized. **Cerese Parker, Missoula County Court Reporter**, felt the judges had a broader view, so the Court Reporters Association backed their beliefs. They were concerned about having another entity other than just the District Court judges having power over their staff. The bill didn't state a salary range for the position.

SEN. HALLIGAN wondered if a staff person was present who had worked on the interim committee to explain how the transition

would work. **Judy Paynter, Department of Revenue**, said two years of work time would be given to look at the transition provisions and how to reorganize. She indicated a person had been nominated to handle the labor transition issues to make sure it would work well. It provided the employees the state raise that the state employees would receive in 2002. It also gave the Judicial branch until July 1, 2002, to create their pay system and implement it. It would provide opportunity for those affected to participate in its creation. They envisioned people coming into the state would not take a cut in pay and there could be some who would receive a pay increase.

SEN. HALLIGAN questioned the start date of the money flow, July 1, 2001, saying it happened very quickly. Could there be a delayed date to ease the system or make the transition not so scary. **Ms. Paynter** said they did consider that transition date and worked with the budget office. The office advised that with all the complex financial transactions, it was better to do them all at once. It was also better for the court system to have a base year before the next biennium's budget. It would ensure a foundation. The committee would give the Judicial Council, consisting of four District Court judges, and one Supreme Court judge two years for review and to make changes for the 2003 biennium. In the process, the committee put into place that although 2001 was close, they would keep whatever appropriation that came out, minus the variable court costs, so every court system stayed in that same proportion throughout the next two years to help remove some of the uncertainty of change.

SEN. GRIMES asked for a highlight of the amalgamation of the local MPEA and how the timeframes, decisions, and associated votes would happen. **John Andrew, Department of Labor and Industry**, also provided staff assistance to the board of appeals. He was not a part of the interim committee, but got involved when questions arose about the collective bargaining process. He didn't have answers to some of the questions. He understood that some employees after the transfer would fall under the Judicial branch. The open question that the Board of Personnel Appeals had regarded the role of the board in determining personnel related matters after the transfer. He didn't feel like he could answer the question relating to pay classification.

SEN. HALLIGAN clarified that the Board of Personnel Appeals did not currently handle Judicial branch issues. **Mr. Andrew** said that their role was not clear because they were part of the Executive branch, not the Judicial.

SEN. HALLIGAN questioned that the Judicial branch did not have a comparable board to the Board of Personnel Appeals. Mr. Andrew replied they didn't and the collective bargaining act did not specifically exclude the Judicial branch from its coverage, but it was not clear.

CHAIRMAN GROSFIELD understood that two District Court judges sat on the committee and wondered if they supported the bill and its findings. SEN. McNUTT replied they did agree and presented the findings and recommendations to an annual judges convention to get the bulk of the judges to agree.

CHAIRMAN GROSFIELD stated change was always hard, especially big change. However, the comments didn't seem to warrant another two years of study. Legitimate points needed to be addressed, but they didn't seem so great as to need more study outside of this session. He questioned the judge about putting it off for another two years, or if the adjustments could be made within the next few months and some transition issues could be addressed next session. Mr. McLean said when the MT Judges Association met and voted on the issue, the vote in opposition was close. The consensus was to ask for a table motion on the bill to address some of the specific concerns. They felt something should be done, but it would take two more years of study.

SEN. HALLIGAN asked about the forfeiture of fines and how they would be earmarked. Ms. Paynter said the moneys would be re-allocated to the state general fund except those from the Crime Victims program. The programs existing off those funds would be held harmless and would continue without disruption. She referred to a chart, EXHIBIT(jus23a08), that illustrated the streamlining of the bill.

SEN. HALLIGAN asked if those programs that were held harmless would have to compete in the DPHHS budget to receive the funds that were currently earmarked for them. Ms. Paynter replied that an adoption program existed and those programs did not have to stand out as a statutory program.

Closing by Sponsor:

SEN. McNUTT closed on SB 176. He acknowledged this did ask for big change, but it was good public policy, it worked for the state, and was long overdue. He said it was an open process to gather all opinions. That allowed them to create something that would fit the statewide diversity, not just for one or two counties. He commented on 3-5-404 saying it might have been

overlooked and asked the committee to look at that. He said the state librarian issue was also overlooked and needed to be evaluated. He noted the process was not finished, but it was time to act. He believed they set up a fair and equitable system, they tried to accommodate employees without reducing their pay, they provided for a transition period, included money for the wage adjustments, they might have a problem with who would negotiate union contracts, but that could be worked out. He strongly urged the committee not to wait another two years. He wanted to see a system enacted.

{Tape : 2; Side : B}

HEARING ON SB 247

Sponsor: SEN. JOHN COBB, SD 25, AUGUSTA

Proponents: John Smith, Missoula Attorney
Jerry Loendorf, Montana Medical Association
John Flink, Montana Hospital Association
Sami Butler, Montana Nurses Association

Opponents: John Connor, Attorney General's office
Barbara Harris, Department of Justice
Russ Cater, Chief Legal Council for DPHHS

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, AUGUSTA, opened on SB 247, which clarified the fraud medicaid statute in some areas. He argued a criminal statute should be violated through a purposely or knowingly mental state. He said the violation should be against a statute, not a policy as was the current practice. The mental state for fraud violation should be purposely or knowingly, not based on knowing the person who supplied a claim. Lastly, a false and misleading claim was confusing because it was not stated clearly in all parts of the existing statute. He noted a Supreme Court case was pending regarding just the thing SB 247 was addressing.

Proponents' Testimony:

John Smith, Missoula Attorney, stated the current law had three problems: 1) the mental state of purposely or knowingly was confusing because within statute it says, "a person knows or has reason to know". By using those words, the statute did not rely solely on purposely or knowingly, but added another mental state, which caused confusion. He argued that people other than the

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Exhibit 1

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SB-176

Simplification in the 21st Century

The complete exhibit is located with the
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225 North Roberts
Helena, MT 59620-1202
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State Assumption of District Courts
Section-by-Section Description of the Bill

SENATE JUDICIARY

Bill No.: Senate Bill 176 (SB176)
Sponsor: Senator Walt McNutt

Exhibit No. 2
Date 7/29/01
Bill No. SB176

- Section 1: The Supreme Court will adopt a plan of personnel administration for the affected employees. It will be administered by the court administrator.
- Section 2: A county government or consolidated city-county government will provide office space, courtroom and other space for district court operations. The costs of the space are considered a county district court expense.
- Section 3: A local government may supplement the budget of a district court.
- Section 4: The district court council will administer the state-funded district court program. The Supreme Court Administrator will administer the adopted policies and the money may not be used for any other purposes.
- Section 5: Composition of the district court council includes the chief justice and four district court judges. Ex-officio non-voting members appointed by the Supreme Court include one chief juvenile probation officer, one clerk of the district court, one county commissioner and one court reporter.

The chief justice will act as the presiding officer.

The district court council will adopt policies to administer state funding of district courts.

Each district court judge retains power to select assistants and employees and to direct their performance.

The chief justice will serve during the term of election. All other members serve staggered three year terms.

The court administrator will provide support to the council.

The council will provide reports to the Legislature or Supreme Court upon request.

Section 6: Vacancies on the council will be appointed by the Supreme Court to fill the remainder of the term from a member of the same group. The appointment must be made within 30 days.

Section 7: The council must meet at least once each quarter. A majority of the voting members constitutes a quorum.

Section 8: There is no compensation for members of the council other than travel expenses associated with discharge of the councils duties, to be paid at the standard state rate.

Section 9: There is a public defenders commission. The commission consists of five members appointed by the governor.

The commission consists of one district court judge, three attorneys and one member of the general public who is not an active or retired attorney or judge. The members serve staggered three year terms.

The commission is allocated to the department of administration for administrative purposes only.

A member of the commission may not serve as a county attorney, deputy county attorney, attorney general or assistant attorney general, a United States district attorney or assistant US district attorney or a law enforcement officer during their term on the committee.

There is no compensation for members of the commission other than travel expenses, paid at the standard state rate.

The commission will develop a system of indigent trial defense services provided by salaried public defenders.

The commission will propose minimum standards for all trial public defenders to the Supreme Court.

The commission will keep a current roster of attorneys eligible for appointment as trial defense council of indigent defendants and provide the roster to all justices and judges in the state.

The commission will establish qualifications for salaried public defenders.

Section 10: Amends 3-1-702, MCA, the duties of the Supreme Court Administrator will include preparation of the budget of the state-funded district court program.

The administrator will also administer the legal assistance for indigent victims of domestic violence and will administer the judicial branch personnel plan [this is already in law -- this is a clarification].

- Section 11: Amends 3-2-501, MCA to read that the supreme court marshal and other persons appointed to provide service to the Supreme Court are employees of the judicial branch and will receive benefits and expenses under the state judicial branch personnel plan.
- Section 12: Amends 3-2-714, MCA to reflect the source of funding for assistance to the indigent victims of domestic violence. \$9.00 from the dissolution of marriage fee is deposited in this fund.
- Section 13: Amends 3-5-511, MCA to reflect that witnesses warrants will be paid by the state instead of the county.
- Section 14: Amends 3-5-515, MCA to reflect that fees for final certificates of naturalization shall be forwarded to the state general fund instead of the county general fund.
- Section 15: Amends 3-5-601, MCA and directs the district court judge to appoint and oversee the performance of an appointed court reporter.

The court reporter may serve in 1 of 3 capacities:

(1) as an employee of the state foregoing transcription fees; (2) as a state employee retaining transcription fees; or (3) as an independent contractor. Court reporters who are state employees are subject to the judicial branch personnel plan.

If a court reporter is employed as a state employee, the state provides the equipment and supplies, the transcription fees are forwarded to the state general fund, and the reporter may be paid overtime for preparation of transcripts. If the court reporter is a state employee entitled to retain transcript fees, the reporter shall provide and maintain the transcription equipment (unless shared), may retain fees, and may not be paid overtime for preparation of transcripts.

An independent contractor is responsible for their own equipment, supplies and equipment maintenance, professional liability insurance and workers compensation insurance. The independent contractor can retain transcription fees.

- Section 16: Amends 3-5-602, MCA to reflect that a court reporter hired as an independent contractor will be compensated as provided in the contract. The Supreme Court Administrator will pay the compensation as provided in this act (section 18 and section 19).

- Section 17: Amends 3-5-604, MCA to read that in the events where a court reporter is a hired state employee and does not retain transcription fees, the fees are paid to the clerk of the district court who forwards them to the state general fund. The state must pay the transcription fee for county attorneys, the attorney general or a judge who requires a transcript.
- Section 18: Amends 3-5-901, MCA to establish the state-funded district court program. It establishes the personnel and expenses to be funded by the district court program. The expense of the appellate defender program and the salaried public defender program is allocated to and paid by the department of administration.
- Section 19: Amends 3-5-902, MCA to instruct the supreme court administrator to record payments for district court expenses and to establish budget and auditing procedures.
- Section 20: Amends 3-15-204, MCA establishing that the state will pay jurors warrants.
- Section 21: Amends 3-15-205, MCA to read that when the costs of impaneling a jury are assessed to one of the parties in the action, the costs collected are forwarded to the state general fund.
- Section 22: Amends 7-6-2426, MCA to clarify the county funding responsibilities. The department of corrections is responsible for the costs of prosecution of an offense committed in the state prison.
- Section 23: Amends 7-6-2511, MCA to include the allowable expenses to be paid by imposition of a county tax on taxable property. The allowable mill levy for imposition of the tax is set according to county classification. Allowable expenses include the costs associated with the clerk of the district court's office and staff, costs associated with providing space for district court operations and county approved supplements to a district court budget. Any additional funds available after these costs may be used for the expenses of the office of county attorney.
- Section 24: Amends the statutory appropriation law (17-7-502, MCA) by removing section 3-5,901, MCA, which is a statutory appropriation for the district court state special revenue fund. The revenue for this fund which is eliminated under the bill is 10% of the vehicle fees.
- Section 25: Amends 22-1-504, MCA to include the librarian and other staff of the state law library as employees of the judicial branch.

- Section 26: Amends 25-1-201, MCA to establish the disposition of fees collected by the clerk of the district court. Unless otherwise noted in the statute the fees are deposited in the state general fund. Certain fees for copies, record searches, or transmission of records to another court can be retained in a county district court fund or county general fund for use on district court operations.
- Section 27: Amends 25-1-202, MCA to establish that the additional fee for filing a civil action in district court, which under current law is applied to the court reporter's salary, must be forwarded to the state general fund.
- Section 28: Amends 25-1-1103, MCA to establish that the fee for registration as a process server must be forwarded to the state general fund.
- Section 29: Amends 25-9-506, MCA establishing that fees for filing a foreign judgement must be forwarded to the state general fund.
- Section 30: Amends 25-9-804, MCA to establish that the fee for recognition of a foreign judgement must be forwarded to the state general fund.
- Section 31: Amends 27-9-103, MCA to establish that the fee for entering a judgement must be forwarded to the state general fund.
- Section 32: Amends 40-4-215, MCA to establish that certain costs associated with a parenting education evaluation are paid by the state.
- Section 33: Amends 40-4-226, MCA establishes that court sanctioned educational programs on the effects of the dissolution of marriage on children must be paid by the state.
- Section 34: Amends 41-5-1701, MCA to establish that juvenile probation officers and youth division office staff are employees of the state judicial branch.
- Section 35: Amends 41-5-1702, MCA to delete an internal reference to a statute that is repealed by the bill.
- Section 36: Amends 41-5-1706, MCA to establish that juvenile probation officers salary and expense while attending certain training programs is a state expense, not a county expense.
- Section 37: Amends 41-5-1707, MCA to establish that assessment officers appointed by the youth court judge are employees of the judicial branch.

- Section 38: Amends 42-2-105, MCA to correct internal references to comply with other changes incorporated in the bill.
- Section 39: Amends 46-8-114, MCA to establish that court ordered payments for the cost of court-appointed council must be forwarded to the state general fund.
- Section 40: Amends 46-8-201, MCA to provide that the costs for appointed counsel for indigent defendants is a state expense, only, not a county expense.
- Section 41: Amends 46-8-202, MCA to read that the public defenders commission may create a public defenders office in a judicial district and that the costs of the office are paid by the state. Public defenders are classified according to the state classification pay plan, not the judicial branch personnel plan.
- Section 42: Amends 46-11-319, MCA to establish that grand jury witness fees and expenses and juror fees are paid by the state, rather than being reimbursed to the county as under current law.
- Section 43: Amends 46-14-202, MCA to establish that the state shall pay the costs associated with a psychiatric examination of an indigent defendant.
- Section 44: Amends 46-14-221, MCA to provide that the costs of sending a defendant to the department of public health and human services to be placed in an institution of the department of corrections, keeping the defendant in the institution, and transporting the defendant back to the court are payable as a district court expense from the state-funded district court program, rather than being reimbursed to the county as under current law.
- Section 45: Amends 46-15-116, MCA to establish that witness fees are paid by the state, not a city or county.
- Section 46: Amends 46-18-235, MCA to establish that certain fines or assessments are forwarded to the state general fund instead of county.
- Section 47: Amends 46-18-603, MCA to establish that after allowable expenses, fines and forfeitures are forwarded to the state general fund.
- Section 48: Amends 52-6-105, MCA to remove the reference to the disposition of the marriage license fee.

- Section 49: Amends 53-9-104, MCA to provide that certain proceeds realized by a perpetrator of a crime go to the state, rather than the county, to pay for any public defender or attorney appointed for the defendant.
- Section 50: Amends 61-3-509, MCA to establish that the 10% district court fee on registration fees for light vehicles is forwarded to the state general fund.
- Section 51: Transition statement . The provisions of 2-15-131 (Rights of state personnel) and 2-15-137 (Federal aid) apply to this act
- Section 52: Repealer Sections 3-5-903 (reimbursement to the county for juror and witness fees), 7-6-2352 (state grants to district courts), 7-6-2427 *{(Effective July 1, 2005) Special provisions for certain charges related to criminal prosecutions.}*, 7-6-2428 (Procedure to collect charges when criminal case is removed.), 25-2-205 (Allocation of costs between counties.), 41-5-1704 (Chief Probation Officer Salary and expenses.), 41-5-1705 (Deputy probation officers -- salary.), MCA are repealed.
- Section 53: Codification instructions Sections 1 – 3 are to be codified in Title 3, Chapter 1, Part 1. Sections 4 – 8 are to be codified in Title 3, Chapter 1. Section 9 is to be codified in Title 2, Chapter 15, part 10.
- Section 54: Saving clause. This act does not affect the matured rights and duties, incurred penalties or proceedings that were begun prior to its effective date.
- Section 55: District Court Council, implementation of staggered terms. One district court judge and the juvenile probation officer terms begin July 1, 2001 and expire June 30, 2004
- One district court judge and the clerk of the district court terms begin July 1, 2001 and expire June 30, 2003.
- Two district court judges, the county commissioner and court reporter terms begin July 1, 2001 and expire June 30, 2002.
- Succeeding terms are to be 3 years.
- Section 56: Transition. Transfer and preservation of rights of employees transferred from county employment to state employment on July 1, 2001. District court employees become state employees on July 1, 2001 and the rights of the employees may not be impaired.

SENATE JUDICIARYExhibit No. 3Date 1/29/01Bill No. SB 176

3-5-404. When sheriff to provide facilities. (1) If suitable rooms for holding the district court and chambers of the judge of said court be not provided in any county by the board of county commissioners thereof, together with the attendants, furniture, fuel, lights, and stationery sufficient for the transaction of business, the court or the judge thereof may direct the sheriff of the county to provide such rooms, attendants, furniture, fuel, lights, and stationery.

(2) The expenses incurred, certified by the judge to be correct, are a charge against the county treasury and must be paid out of the general fund thereof.

History: En. Sec. 142, C. Civ. Proc. 1895; re-en. Sec. 6302, Rev. C. 1907; re-en. Sec. 8856, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 144; re-en. Sec. 8856, R.C.M. 1935; R.C.M. 1947, 93-513.

Cross References:

Exception to limitation on expenditures of District Judge, 7-6-2324.

Case Notes:

Court Order for Suitable Jury Room – Supervisory Control Properly Used – Inherent Powers Not Implicated – Findings Not Clearly Erroneous: Judge Moran issued an order pursuant to this section for the Gallatin County Sheriff to provide a specific space in the Gallatin County courthouse for use as a jury room and to have the room remodeled and for the expenses to be paid from the Gallatin County general fund. Gallatin County requested the Supreme Court to take supervisory control to prevent protracted litigation, a request with which Judge Moran joined. However, Judge Moran asked that a District Court Judge be appointed to make findings and conclusions. The Supreme Court accepted jurisdiction in order to prevent protracted litigation of the issues and appointed a neutral District Court Judge, Judge Wilson, to hold a hearing and make findings and conclusions. The Supreme Court held that Judge Moran had the authority under this section to issue an order to the Sheriff to provide a suitable jury room; that the space provided by the Sheriff pursuant to the order was "suitable", within the dictionary definition of that word; that because the Legislature provided the authority under which Judge Moran acted, the implied powers of the District Court and the separation of powers doctrine were not implicated by Judge Moran's action; and that the findings of fact concerning the suitability of the room provided by the Sheriff and the suitability of another alternative jury room designated by the County Commissioners were not clearly erroneous. *Gallatin County v. District Court*, 281 M 33, 930 P2d 680, 54 St. Rep. 46 (1997).

Court Appointment of Attendants: It is only after the Sheriff has refused to perform the duties of court attendant and the Board of County Commissioners has declined to furnish the District Court with assistance that a District Judge may appoint his own attendant. *State ex rel. Hillis v. Sullivan*, 48 M 320, 137 P 392 (1913), distinguishing *State ex rel. Schneider v. Cunningham*, 39 M 165, 101 P 962 (1909).

Accumulated sick leave, vacation and other leave and years of service will be fully transferred to the state and become a state obligation.

The rights of transferred employees covered by a collective bargaining agreement in effect on June 30, 2001 will not be impaired.

Section 57: The district court retains all rights to personal property relating to the function of the court. The county commission and the court administrator will resolve any conflict as to the proper disposition of property. There is no appeal from the decision of the administrator and the county commissioners.

Section 58: Transition. All judicial branch employees, including district court employees, become subject to the judiciary branch personnel plan on July 1, 2002.

During FY 2002, district court employees who were former county employees are entitled to the salary and compensation they were receiving on June 30, 2001. They are also entitled to the statewide average pay increase effective October, 2001.

An employees compensation may not be reduced by transfer to the state classification pay plan. If application of the state classification pay plan would reduce an employees compensation, the employee will remain at the compensation earned at the time of transfer until compensation under the plan requires an increase.

Section 59: Transition. On a one-time basis, the state may purchase a court reporters equipment if the court reporter becomes a state employee.

Section 60: Guarantee share. For FY 2002 and 2003, the district court council will use the formula provided to determine the fixed and variable budgets of each district court.

Section 61: The act is effective on July 1, 2001.

Section 62: Applicability. The judiciary branch personnel plan adopted under this act applies to fiscal years beginning July 1, 2002.

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is more than the ten (10) page limit
in scanning.

Exhibit: 4

1.29.01

SB-176

The complete exhibit is located with the
minutes are at the
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CHAMBERS OF
JOHN W. LARSON
DISTRICT COURT JUDGE

STATE OF MONTANA

FOURTH JUDICIAL DISTRICT
MISSOULA AND MINERAL COUNTIES
MISSOULA COUNTY COURTHOUSE
200 WEST BROADWAY
MISSOULA, MONTANA 59802-4292
(406) 523-4773
(406) 523-4739 FAX

September 12, 2000

Anne Guest, Director
Missoula Parking Commission
128 West Main
Missoula, MT 59802

SENATE JUDICIARY

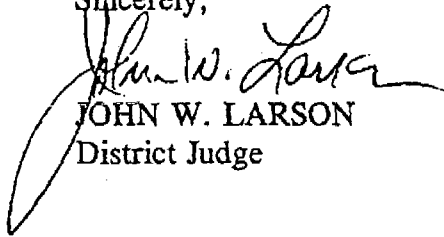
Exhibit No. 5
Date 7/29/01
Bill No. SB 176

RE: Youth Court Parking

Dear Ms. Guest:

Please find attached a Memorandum of Understandg regarding Youth Court parking.
You may work out the cost and bill Missoula County.

Sincerely,


JOHN W. LARSON
District Judge

Anne -
When you send
back Memo of Understandg
& Order after your
signature Please
include a copy of
the 1984 Order
Thank you

1 Fourth Judicial District
Missoula County Courthouse
2 200 West Broadway
Missoula, MT 59802
3
4

5 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

6 IN THE MATTER OF)

7 PARKING FOR YOUTH COURT)

MEMORANDUM OF UNDERSTANDING

8)
9)
10 TO: Missoula County Parking Commission & Missoula Youth Court
11

12 In order to facilitate parking issues regarding Youth Court
13 which had been previously dealt with by Court Order.

14 The Order of August 16, 1984, regarding Youth Court personnel
15 parking will withdrawn by separate court order.

16 IT IS FURTHER AGREED that:

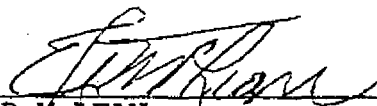
17 1. Four additional parking spaces be marked by signs as
18 available to Youth Court staff on the east side of Woody Street (no
19 meters). Youth Court staff will have an appropriate permit
20 displayed on car dashboards/rear view mirror to authorize this
21 parking.

22 2. The three meters in front of Youth Court shall be marked
23 as official business - Youth Court. No tickets will be issued to
24 vehicles parked in those metered locations provided an appropriate
25 permit (available from Youth Court) is displayed on the
26 dashboard/rear view mirror and the meter is not expired.

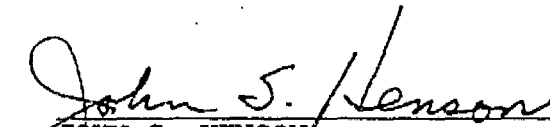
1 3. Parking tickets and towing will occur on parking without
2 authorization.

3 4. Missoula County will be responsible for the costs of those
4 parking locations and signs by separate court order.

5 DATED this 11th day of September, 2000.

6
7 
8 ED McLEAN

9 District Judge, Dept. 1

6
7 
8 JOHN S. HENSON

9 District Judge, Dept. 2

9
10 
11 JOHN W. LARSON

12 District Judge, Dept. 3

9
10 
11 DOUGLAS G. HARKIN

12 District Judge, Dept. 4

13
14
15 APPROVED this _____ day of September, 2000.

16
17 _____
18 ANNE GUEST, Missoula County
19 Parking Director
20
21
22
23
24
25
26

1 Fourth Judicial District
2 Missoula County Courthouse
3 200 West Broadway
4 Missoula, MT 59802

5 MONTANA FOURTH JUDICIAL DISTRICT

6 IN THE MATTER OF)

7 PARKING FOR YOUTH COURT)

ORDER

10 TO: Missoula County Parking Commission & Missoula Youth Court

12 In order to facilitate parking issues regarding Youth Court
13 which had been previously dealt with by Court Order.

14 The Order of August 16, 1984, regarding Youth Court personnel
15 parking is hereby withdrawn and the attached Memorandum of
16 Understanding will issue in its place.

17 Missoula County shall be responsible for the costs of the
18 parking location and signs.

19 DATED this _____ day of September, 2000.

22 ED McLEAN
23 District Judge, Dept. 1

JOHN S. HENSON
District Judge, Dept. 2

25 JOHN W. LARSON
26 District Judge, Dept. 3

DOUGLAS G. HARKIN
District Judge, Dept. 4

This order will
be signed after
Memorandum of
Understanding
is signed -
Please send Memo
+ Order back after
signing to Judge Larson's
office

David C. O'Connell
659 N. Rodney St.
Helena, MT. 59601
406 449 3447
dabhid@earthlink.net

SENATE JUDICIARY

Exhibit No. 6
Date 1/29/01
Bill No. SB176

Amendment to SB176

Mr. Chairman and Members of the Committee

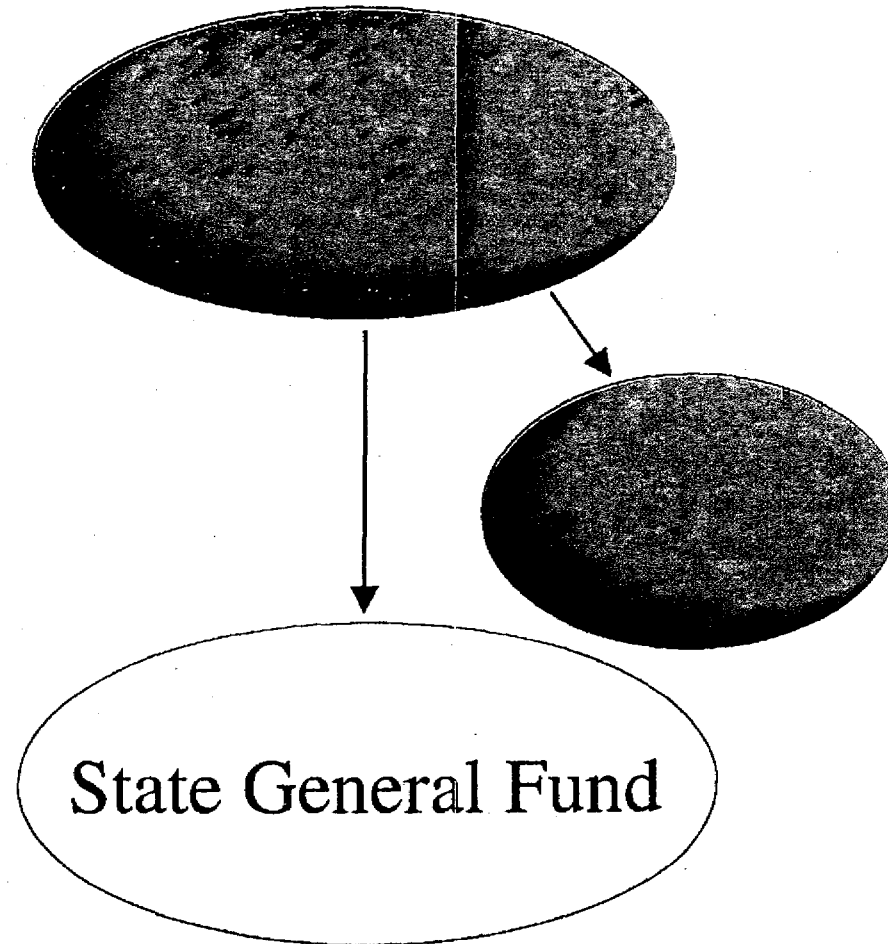
My name is Dave O'Connell, I am a shop steward for Lewis & Clark County Public employees for Laborer's Local 254. I am also a member of the Executive Board.

I am here because I am concerned about transferring County employees to the State. I am concerned because I have been told unofficially that the people I represent will also be transferred over to MPEA. This is wrong ! The men and women I represent fought hard for Local 254 representation. I there for ask that you amend SB 176 by providing that this State will honor all current contracts and continue to negotiate with these employees union representatives in the future. To disregard there wishes is a violation of the right to organize under the state Constitution.

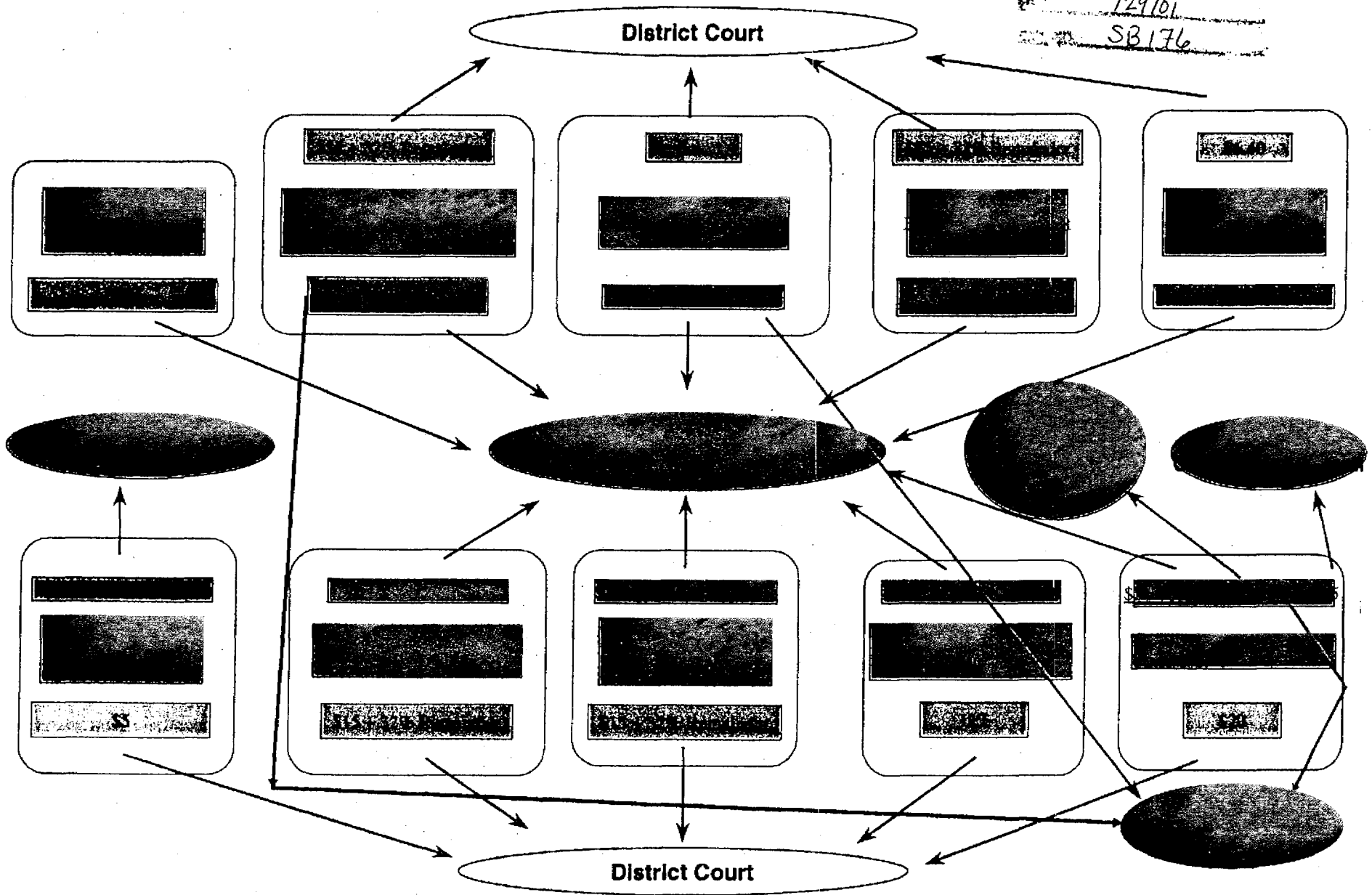
I Thank you for your Time and Patience,

Dave O'Connell

District Court Fees – To Be



STATE'S ATTORNEY COMMITTEE
CASE NO. 8
1/29/01
SB 176



DATE Jan. 29, 2001SENATE COMMITTEE ON JudiciaryBILLS BEING HEARD TODAY: SB 176, SB 247**PLEASE PRINT**

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ed McLEOD	523-4771	Mt. Judges Assoc	SB 176		X
JIM REGNIER	444-5494	Mt. Supreme CT	SB 176	informational	
Gordon Morris		MAA	176	✓	
DAVE O'CONNELL	447-3447	CITIZEN	176		✓
Hal Luttrell	579-4813	Missouri Co	176	✓	
Sharon Gaughan	549-6105	MSLA Co.	176		✓
DEBORAH MEREDITH	363-6041	MSLA/CAVALI CTY	176		✓
Julie Brandon	497-6422	Butte-Silver Bow Cty	176		✓
Ceneve PARKER	542-0005	Court reporter - Missoula County	176		✓
ANNMAY Dussan	523-4858	Missoula Co	176	✓	
John Connor	444-5791	Atty Gen.	247		X
Barbara C. Harris	444-2026	Attorney General	247		✓
Robert Drew	256-6861	BISO Public Defender	176		✓
Sami Boulton	442-6710	MAA	247	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/29/01

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 176, SB 247

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Harry Fichtel	356-2251	MACO Rosebud co.	176	✓	
Dave Benkhoff	364-2364	Valley Co.	176	✓	
Charles R. Brinks	698-2380	Yellowstone City	SB 176		
Jerome Boerdert	442-658	Pub. Access	S 247	✓	
John E Smith	721-0300	CITIZEN	S 247	✓	
Chad Wright	449-4122	Appellate Def. Off.	SB 176	✓	
Kurt Alme	444-2462	DOR - Governor's Office	176	✓	
Ron Alles	447-8311	Lewis & Clark County	176	✓	
Ed Connell	225-3844	SELF	176	✓	
Dana Vama	444-4154	SELF	247	✓	
Judy Payton	444-2554	Dept of Revenue	176	✓	
Russ Cater	444-5626	DPHHS	247		✓

Lena Smith 444-2698 Suprem Ct 176 informational

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
SUB-COMMITTEE ON JUDICIARY SB 176

Call to Order: By SEN. WALTER MCNUTT, on February 17, 2001 at
7:10 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Anne Felstet, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:
Subcommittee on SB 176.

Discussion:

Motion: SEN. HALLIGAN moved that AMENDMENTS SB017606.AVL TO SB
176 BE ADOPTED.

Discussion:

Valencia Lane, Legislative Staffer, explained the amendments
removed public defenders, their employees, and deputies. They
also amended the former reimbursement program to become the
district court program.

SEN. MIKE HALLIGAN clarified that district court criminal cases
as listed in amendment #9 referred specifically to felonies.

Ms. Lane continued by saying the public defenders were returned to current law and the appropriate references were made in the amendments. She also clarified that if both bills passed (SB 144 and SB 176) that they should be coordinated. The last amendments referred to the pay plan in removing public defenders.

Vote: Motion to adopt amendments SB017606.avl carried unanimously.

Ms. Lane noted the sub-committee approved four sets of amendments. She had already created a document that incorporated all four sets. That document needed to be presented to the Judiciary Committee.

SEN. WALT McNUTT said he didn't think this bill would be held past transmittal because if HB 124 failed, this bill failed.

Judy Paynter, Department of Revenue, said she talked with Greg Petesch, the staffer for that bill. They agreed to put a coordination clause on the bills. She didn't think any one would pass this bill without the House bill. The price was too great.

Ms. Lane asked if this bill would move out of the Judiciary committee.

SEN. McNUTT said he didn't think so.

SEN. HALLIGAN asked if this bill shouldn't go to the House so they could look at this bill as they were looking at the other bill. It would allow them to be educated on the whole package.

Ms. Paynter reiterated this bill wouldn't pass without HB 124.

SEN. McNUTT said he'd talk to SEN. LORENTS GROSFIELD to see what could be done. Maybe the two bills should be in the House at the same time.

Ms. Lane said the bill needed to be passed out of committee and put into Finance and Claims so it wouldn't have to be on the list of 10.

SEN. HALLIGAN agreed. He said it wasn't a given that it would pass out of the Judiciary committee.

Ms. Lane said she had the amendments ready.

SEN. HALLIGAN said if the bill was done today, they'd know where they were going.

SEN. McNUTT said he really wasn't ready today.

SEN. HALLIGAN said it might be useful to have some executive discussion on it since the staff was around to answer questions.

SEN. McNUTT said he would suggest doing this bill in Judiciary.

SEN. HALLIGAN said maybe Ms. Lane could summarize and the staff could present what they were doing. He was afraid if it was bumped to Finance and Claims, the Judiciary would forget about it and another committee would have to be educated.

SEN. McNUTT said it had been discussed to see what would happen to HB 124, but he would put this bill forward.

Ms. Paynter said they were keeping track of all the connected bills.

SEN. HALLIGAN said the general assumption was that if bills went to Finance, they never came back. So, he hated to see the momentum going.

Ms. Lane said she would explain the amendments and it would be easier today rather than next week.

SEN. McNUTT agreed and would try to have it discussed in committee.

SEN. HALLIGAN suggested having the bill over to the House by the 45th day so they could discuss the whole picture on the floor.

Ms. Paynter said this really wasn't a Finance and Claims issue. The funding would be provided in HB 124. The changes would take place in conference committee to make the appropriations work.

ADJOURNMENT

Adjournment: 7:25 A.M.

SEN. WALT McNUTT, Chairman

ANNE FELSTET, Secretary

LG/AFCT

EXHIBIT(jus40bad)

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on February 17,
2001 at 9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: Sen. Jerry O'Neil (R)

Staff Present: Valencia Lane, Legislative Branch
Cecile Tropila, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: SB 176, SB 467, SB 384, SB 476
SB 417, SB 477, SB 417, SB 452

EXECUTIVE ACTION ON SB 176

Discussion:

SEN. WALT MCNUTT handed out amendments EXHIBIT(jus40a01). He
said they had finished the subcommittee and made some
modifications to the bill.

Valencia Lane, Legislative Staff, explained the amendments and
how they were changed to make more clear. She said the

subcommittee looked at various points of the bill and incorporated items from testimonies given during the hearing.

SEN. MIKE HALLIGAN said the subcommittee did all they could do to clean this bill up and change language in the amendments. **SEN. MCNUTT** added some judges are uncomfortable with this bill and some will like it. He felt the subcommittee addressed all of the concerns that were brought up.

Motion: **SEN. MCNUTT** moved SB 176 AMENDMENTS BE ADOPTED.

Discussion:

SEN. DUANE GRIMES wondered if paragraph five could be segregated out of the amendment. He didn't think it was necessary and felt there were no implications for this paragraph. **John Andrew, Department Labor and Industry**, said currently there is no one for bargaining agreements, but if this bill was to pass then some individuals would be prepared for this area.

SEN. RIC HOLDEN asked if any district judges came to the subcommittee to testify on the issues. **SEN. MCNUTT** said no.

Vote: Motion carried unanimously.

Motion: **SEN. MCNUTT** moved SB 176 DO PASS AS AMENDED.

Discussion:

CHAIRMAN GROSFIELD asked about the concept of getting this bill to the house and he wondered where HB 124 was in its process and if it was likely to be moved to the Senate. **Judy Paynter, Department of Revenue**, said HB 124 is now in a select committee and explained when the hearings were held. She said they will have to take into account the welfare of the courts after the transmittal break.

SEN. HOLDEN asked why was this bill brought forward and what is the major point of centralizing the district court system in Helena. **SEN. MCNUTT** explained this bill was the result of an interim committee and tried to establish a state district court, which has been worked on since 1977. He talked about the different sources of funding that goes into these systems.

SEN. HOLDEN asked if this process was to go through would taxpayers in the state be looking at increased costs. **SEN. MCNUTT** said no, because through this process all of the counties

had been researched with expenses and they established a funding mechanism for them. He said they worked on all of the counties budgets and what would be expected on a future basis.

SEN. HOLDEN asked if costs increased due to moving the system to Helena since the distance from all of the districts is far. SEN. MCNUTT said people in rural areas are supporting this bill because there was disparity in courts across the state.

{Tape 1; Side B}

SEN. HOLDEN asked about a bill that regarded pay increases. SEN. HALLIGAN said he was not carrying that bill, but SEN. BOHLINGER was. He is working on a bill dealing with retirement age of judges.

SEN. HOLDEN asked how the courts get brought up to the level without increase taxes. SEN. HALLIGAN said it doesn't and if additional funding is needed to allow uniformity in the district courts, the next session would deal with this issue.

SEN. HOLDEN didn't think this bill should pass taking away local control of the system that is currently in place.

CHAIRMAN GROSFIELD asked how the discussion has been from the local level regarding the control that will no longer be in these rural areas. Judy Paynter explained the differences in the current court system. She said by allowing the judicial system to look at situations and find a way to allocate resources within their own system, may add a risk and they would have to ask the next session for modifications in the budget.

SEN. MCNUTT showed the diagram of the district court system and explained how this bill would help the system.

Vote: Motion carried 8-1 with SEN. HOLDEN voting no.

EXECUTIVE ACTION ON SB 467

Motion: SEN. GRIMES moved SB 467 DO PASS.

Discussion:

SEN. STEVE DOHERTY felt this bill needed to have language cleaned up. SEN. GRIMES said this bill could be used by the trial lawyers in a significant and in an unintended way. He added all

HEARING ON SB 176

Sponsor: SEN. WALTER McNUTT, SD 50, Sidney

Proponents: Dave Woodgerd, Chief Counsel, DOR
Bill Kennedy, Yellowstone County Commissioner

Opponents: None.

Opening Statement by Sponsor:

SEN. WALTER McNUTT, SD 50, Sidney, said the SB 176, a bill to revise district court funding, was the result of an interim study committee and also worked in conjunction with what became SB 124. One of the problems was the coordination instructions.

{Tape : 1; Side : B}

Dave Woodgerd, Chief Counsel, DOR, said the amendment provided coordination with HB 62. If SB 176 and HB 62 both passed, the amendment would make HB 62 void and juvenile probation officers would become state employees. The second part of the amendment provided coordination language with SB 66, which provided for the salary of county attorneys that is paid by the state to increase. He said the bill was currently tabled. He addressed two other conflicts with in HB 83 and HB 345 that were resolved with the amendments.

Written testimony for Bill Kennedy, Yellowstone County Commissioner was in support of SB 176. EXHIBIT(fcs63a01)

SEN. MILLER asked if the fiscal note was accurate with where the bill was currently. Mr. Woodgerd indicated it was. SEN. MILLER asked if the \$39 million was in the reimbursement portion of HB 2. Mr. Woodgerd affirmed that it was.

SEN. CHRISTIAENS asked about the grade level for juvenile probation officers. Mr. Woodgerd said the bill didn't provide particular salary or grade classifications. Chief and deputy probation officers would have different classifications. The executive branch would classify those positions. Judy Paynter, DOR, stated that employees that moved from county to state employment would stay at their current salaries for the first year and get the state pay raise like any other state employee. The employees would move to the newly established judiciary pay plan. SEN. CHRISTIAENS asked about the status of HB 62. Ms. Paynter indicated it was tabled. SEN. MIGNON WATERMAN asked if

those employees would be affected by the 1 ½ percent across the board employee cut in HB 2. **Ms. Paynter** said they would escape that cut. **SEN. WATERMAN** asked how they were exempted and if the judiciary was exempted. **Ms. Paynter** said there was no dollar reduction in HB 124. They are not currently state employees. The money was there to move the existing folks into the current system. **SEN. WATERMAN** asked how the language in the across-the-board cut did not apply. **Jon Moe, Fiscal Division** said he worked on the summary of the HB 2 amendments and judiciary may have been exempt. They are not currently state employees. In the amendment in HB 2, the cut is taken in one place within a department and allows allocating those reductions within the department. If judicial was not exempted there may be some potential for that to happen. He said he would ask **Clayton Schenk** or **Taryn Purdy**.

SEN. ROYAL JOHNSON asked how many employees would be involved and whether the state computer system was capable of taking that on. **Ms. Paynter** said there were 255 FTE that would transfer and they would come into the state SABHRS system.

SEN. BILL CRISMORE asked how counties look at the issue. **Mr. Morris** said MACO had worked for years to have state courts funded by the state, not property taxes. Counties support what they are trying to do.

SEN. TESTER asked about the net impact on the general fund if SB 124 passes. **Ms. Paynter** indicated there would be an \$8 million gain in 2003 and in the 2003 to 2005 biennium there would be a \$400,000 gain. **SEN. LINDA NELSON** asked where SB 176 was tied to SB 124. **SEN. McNUTT** pointed out that on page 34 lines 28 and 29, there was an amendment that was passed on the floor of the Senate that coordinates HB 124 and SB 176.

SEN. KEENAN asked **Lisa Smith** to address **SEN. WATERMAN's** question. **Lisa Smith, JUD**, said her understanding was the 1 ½ percent global reduction affected all FTE that were funded in HB 2. If those FTE were not funded in HB 2 yet, the cut would not apply to them. The judicial branch lost 1.75 FTE and had the authority to allocate that reduction throughout the branch. She hoped they would not have to keep that reduction by the end of the session throughout the branch. She did not see that it would be applied to those FTE. **SEN. WATERMAN** said she did not see how those employees would not end up in HB 2 if the bill passes. **Ms. Smith** said the way the reductions have been calculated, she did not see those numbers being adjusted. **SEN. WATERMAN** thought the

Date 2/17/01
Bill No. SB 176Amendments to Senate Bill No. 176
1st Reading Copy

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 16, 2001 (4:58PM)

1. Title, line 6.
Following: "ATTORNEYS"
Insert: ", PUBLIC DEFENDERS,"
2. Title, line 8 through line 9.
Following: "COUNCIL;" on line 8
Strike: remainder of line 8 through "COMMISSION;" on line 9
3. Page 2, line 1.
Following: "attorneys,"
Strike: "and"
Insert: "salaried public defenders, assistant public defenders,
employees of the office of public defenders,"
Following: "court"
Insert: ", "
4. Page 4, line 11 through page 5, line 10.
Strike: section 9 in its entirety
Renumber: subsequent sections
5. Page 10, line 18.
Following: "fees,"
Strike: "expenses for indigent defense provided by nonstate
employees,"
6. Page 11, line 6.
Following: "youth;"
Insert: "and"
7. Page 11, line 7 through line 9.
Strike: subsections (v) and (vi) in their entirety
Renumber: subsequent subsection

8. Page 12, line 11 through line 12.

Following: "program" on line 11

Strike: remainder of line 11 through "program" on line 12

9. Page 12, line 13.

Following: line 12

Insert: "(4) (a) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), and to the extent that funds are available, the state shall reimburse counties:

(i) in district court criminal cases only, expenses for indigent defense; and

(ii) in proceedings under subsection (1)(e):

(A) expenses for appointed counsel for the youth; and

(B) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.

(b) If money appropriated for the expenses listed in subsection (4)(a) is insufficient to fully fund those expenses, the county is responsible for payment of the balance."

10. Page 26, line 5 through line 16.

Strike: section 41 in its entirety

Insert: "Section 40. Section 46-8-202, MCA, is amended to read:

"46-8-202. Public defender's office. Any county through its board of county commissioners may provide for the creation of a public defender's office and the appointment of a salaried public defender and ~~such~~ assistant public defenders ~~as~~ that may be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ counsel. The costs of ~~such~~ the office ~~shall~~ must be at state expense payable according to procedures established under ~~3-5-902(1)~~ 3-5-901(4) and, to the extent those costs are not paid by the state, at county expense in accordance with ~~3-5-901(3)(4)~~ and 3-5-902(1)."

{Internal References to 46-8-202: None.}"

11. Page 33, line 17.

Following: line 16

Insert: "NEW SECTION. Section 53. Coordination instruction.

If Senate Bill No. 144 and [this act] are both passed and approved, then 61-3-509(3) in [this act] is amended to read:

"(3) The county treasurer shall deduct as a district

court fee 10% of the amount of the registration fee collected on light vehicles under 61-3-560 through 61-3-562. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the ~~state treasurer~~ department of revenue at the time that the county treasurer distributes money from the motor vehicle suspense fund. The ~~state treasurer~~ department of revenue shall credit amounts received under this subsection to the state ~~special revenue~~ general fund to be used for purposes of state funding of district court ~~expenses~~ costs as provided in 3-5-901." "

12. Page 35, line 8 through line 9.

Following: "to the" on line 8

Strike: remainder of line 8 through "plan or the" on line 9

13. Page 35, line 9.

Following: "application of"

Strike: "a state pay"

Insert: "the judicial branch personnel"

- END -

DATE February 17, 2001

SENATE COMMITTEE ON Judiciary Subcommittee

BILLS BEING HEARD TODAY: SB 176

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Mary "Marty" Phippen	449-5104	Ht. Assn. of Clerks of District Court	SB 176	☒	☐
Lisa Smith	444-2698	Supreme Court Informational		☐	☐
Judy Pagata	444-2554	Dept of Revenue	SB 176	☐	☐
				☐	☐
				☐	☐
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				☐	☐
				☐	☐

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



MONTANA STATE SENATE

SENATE CLERK AND CLERK

EXHIBIT NO. 1

DATE 3-20-01

BILL NO. SB 176

+++++ WITNESS STATEMENT +++++

NAME L. Sanford Selvey, Jr.

ADDRESS 2708 1st Av. North Billings, MT

HOME PHONE: _____ WORK PHONE: 406-258-6301

REPRESENTING Yellowstone County Public Defender

APPEARING ON WHICH PROPOSAL ? SB 176

DO YOU: SUPPORT ☒ OPPOSE _____ AMEND _____

COMMENTS: as written

Yellowstone County Commissioners,
Bill Kennedy requested that I appear
and express his support for SB 176
as written. Commissioner Kennedy needed
assurance that SB 176 would in fact provide
reimbursement to the counties for the expense
of the public defenders. The bill does that
very well.

PLEASE LEAVE PREPARED STATEMENT WITH
COMMITTEE SECRETARY

Amendments to Senate Bill No. 176 BILL NO. SB 176
3rd Reading Copy

Requested by Senator Walter McNutt

For the Senate Finance Committee

Prepared by Valencia Lane
March 19, 2001 (3:29PM)

1. Page 35, line 10.

Following: line 9

Insert: "(3) If House Bill No. 62 and [this act] are both passed and approved, then House Bill No. 62 is void.

(4) If Senate Bill No. 66 and [this act] are both passed and approved, then 3-5-901(2)(a) in [this act] is amended to read:

"(2) For the purposes of subsection (1), district court costs do not include:

(a) the percentage of the salaries of county attorneys payable by counties under 7-4-2503;"."

- END -

who agrees to use the matching funds in conjunction with the USDA. He made reference to the chart displaying the leveraged value of \$5 million state intermediary re-lending program EXHIBIT(fcs64a01). He explained that the board can repurchase seasoned loans. He pointed out assumptions seven, eight and nine on the fiscal note EXHIBIT(fcs64a02). He charged that local revenue will increase as a result of the bill. The bill puts the legislature in a position with the USDA program, the more you put up front the more points you get in the process of qualifying for loans. He stated creating jobs creates a net gain for government. He hypothesized if all of the \$5 million was loaned out, there would still be a net gain.

Questions from the committee:

SEN. ZOOK questioned why the money is not in the USDA budget. REP. PRICE informed him that the USDA has a variety of programs. The loans refer specifically to economic development, not just agriculture. He added that economic development could encompass agriculture growth. SEN. ZOOK asked if he meant gasohol plants. REP. PRICE said that was a good example. SEN. ZOOK inquired because the type of program is a part of the USDA budget on a national level. It makes the agriculture program look like it has a huge budget. REP. PRICE stated it is for economic development in states that are mostly impacted by agriculture.

EXECUTIVE ACTION ON SB 176

CHAIRMAN KEENAN informed the committee of an amendment for the bill SB017601.av1 EXHIBIT(fcs64a03).

SEN. MIGNON WATERMAN asked if the bill removes responsibility for the counties to pay for youth and mental health placements. Lois Steinbeck, Legislative Fiscal Division, declared she did not have a chance to review the bill. SEN. WATERMAN wanted to make sure the amount was indicated in the fiscal note. If the state is assuming the cost for placement, what incentive is there for a judge to place youth and mental health patients into Warm Springs.

SEN. CHRIS CHRISTIANS commented that page 12, line 23 is similar to what SEN. WATERMAN was talking about. Page 13 reads, "If the money appropriate for the expense is listed in subsection 4A is insufficient to fund those expense the county is responsible for payment of the balance." SEN. WATERMAN argued that the amount did not include placement costs. She asked if someone from the

interim committee could explain the intent. SEN. JON TESTER declared the intent was for the state to pick up those costs. SEN. WATERMAN wanted to make people aware of the costs. She stated there is a current lawsuit in Missoula. There is the potential for the state to pick up 100% of the tab, and have no say about placement.

SEN. JERGESON questioned how the fiscal note would appear on the status sheet. Mr. Moe stated that general revenue would appear in one column and general fund expenditure in another. The net impact would be reflected. SEN. JERGESON wondered since the bill started in the Senate it would not have the appropriations in it, it would need to be in a third potential appropriations column. He declared the amount was not reflected in the ending fund balance. He expressed his discontent with the package of bills starting in different houses. He felt the funding assessment was incorrect and would lead to a false ending fund balance.

CHAIRMAN KEENAN stated he did not understand why the bills tied to HB 124 did not all start in the House together.

Motion: SEN. STAPLETON moved that SB 176 DO PASS.

Discussion:

SEN. WATERMAN asked if it was necessary to move the bill out of committee today. She warned that if the bill passes a lot of work needs to go into making sure that the bill does what it says. She read aloud page 10, line 17, where the state will have to pay for all commitments. The bill needs clarification.

SEN. ZOOK stated in the fiscal note the bill is supposed to be revenue neutral. There is no provision in the bill to tie it to HB 124.

SEN. WATERMAN clarified the link is on page 34. She questioned if the bill was truly revenue neutral. Counties will react differently depending on who is paying. She interpreted the bill to read, the state was assuming the counties' cost for placement.

{Tape : 2; Side : A}

SEN. CHRISTIANS proclaimed that the bill is good for his county. They are currently trying a case that has the potential to bankrupt their county. He argued the bill would break the bank.

SEN. WATERMAN charged the county revenues are required to pay off the loans, that is not indicated in the fiscal note.

Substitute Motion/Vote: SEN. MILLER made a substitute motion that SB 176 BE TABLED. Substitute motion carried 17-1 with Tester voting no.

SEN. TESTER argued that the current action would kill the bill because it would miss the transmittal deadline.

CHAIRMAN KEENAN said the committee has the right to reconsider their action. However, they need more information in order to make an appropriate decision.

SEN. JERGESON commented that the House could suspend the rules and get the bill off of the table if necessary.

EXECUTIVE ACTION ON SB 338

Motion: SEN. KEENAN moved that SB 338 DO PASS.

Motion: SEN. KEENAN moved that AMENDMENTS BE ADOPTED.

Discussion:

CHAIRMAN KEENAN explained that he wanted to leave CHIP at 150% and spread the coverage. He argued there are gaps in the funding. He wanted to make sure that at 150% services are being maximized.

SEN. CHRISTIANS questioned the purpose of the bill with the proposed amendments.

CHAIRMAN KEENAN stressed the importance of page three, section four, subsection two.

CHAIRMAN KEENAN withdrew his motions.

EXECUTIVE ACTION ON SB 497

Motion: SEN. KEENAN moved that SB 497 DO PASS.

Substitute Motion/Vote: SEN. MILLER moved that SB 497 BE TABLED. Motion carried 12-5 with Nelson, Waterman, McCarthy, Shea, Tester voting no.

9.4%. The proposed \$7 million would reduce that by a couple of percentage points.

SEN. TESTER asked if the defining enrollment dollars would be rolled into the flex plan. SEN. GLASER stated rather than divert the declining dollars, move them into the flex plan for the next legislative session.

CHAIRMAN KEENAN questioned if \$20 million would be rolled into the bill. SEN. GLASER said that could happen through various sources.

SEN. DEBBIE SHEA stated that teachers did not know about the latest increases. Mr. Feaver said teacher salaries are irrelevant at the state level because they are bartered at the local level. Average salary varies around the state.

EXECUTIVE ACTION ON SB 176

Motion/Vote: SEN. KEENAN moved to RECONSIDER ACTION ON SB 176. Motion carried 15-1 with Cobb voting no.

SEN. JERGESON declared his major concern was the conflicts between HB 124 and SB 176. The way it would appear on the ending fund balance would be inaccurate.

{Tape : 4; Side : A}

He stated if the bill is important, the committee should hang onto the bill and deal with them as a pair.

SEN. MCCNUTT declared that the bill needs to go forward. There is language that coordinates the two bills. The bill cannot stand alone. He stated it was not his impression that the two bills would skew the ending fund balance.

SEN. NELSON spoke of SEN. WATERMAN's concerns about mental health and juvenile commitments. SEN. MCCNUTT stated it was his understanding that it was limited to the 1998 amounts of money.

Motion: SEN. MILLER moved SB 176.

Substitute Motion: SEN. MILLER made a substitute motion that SB 176 AMENDMENTS BE ADOPTED. EXHIBIT(fcs64a05)

Discussion:

SEN. CHRISTIANS asked if the language on page 12 and 13 could be clarified. Judy Paynter, Department of Revenue, stated that the public employees would be reimbursed. It is a provision of carefulness. Public Defenders can be paid with the funds that exist.

SEN. ZOOK asked where it dealt with juvenile funding. Ms Painter stated there is not uniformity among the district courts and what they pay for. There is no desire for them to start billing the state. The bill is a result of a compromise between districts.

SEN. ZOOK questioned where the limitation are for court costs regarding juveniles. SEN. MCCNUTT said the limitation was on page 11. Abuses of the system occur because judges do not know who to bill. Costs are claimed through the current Supreme Court system. The bill is not about that.

SEN. MILLER withdrew his motions.

ADJOURNMENT

Adjournment: 12:35 P.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT(fcs64aad)

Vote: Motion that SB 338 DO PASS AS AMENDED carried 17-1 with Waterman voting no.

EXECUTIVE ACTION ON SB 176

SEN. WALTER McNUTT, SD 50, Sidney, passed out a booklet of the findings and recommendations of the Court Funding and Structure Committee. EXHIBIT(fcs64b02) He pointed out pages 13 and 14 dealing with the sources of funding and expenditures to revise district court funding.

Discussion:

SEN. CHRISTIAENS said a concern of the committee was with juvenile placements. He said at least one county had gotten into severe problems. He said it was unclear with the bill as amended, as to whether or not there were parameters and safeguards to say that a judge would be prudent in placements if funding was revised. SEN. McNUTT said with the amendments on page 11 line 20, juvenile expenses would be paid out the same as they were paid out in 1998 and 1999. Regarding juvenile proceedings, involuntary commitment expenses, and district court expenses associated with civil jury trials, the base years of 1998 or 1999 were used for the amount of money that would be available. In the next biennium they may come back and say that was not enough. SEN. WATERMAN did not read that to say the dollar amount but rather the categories of expenses that were paid. She understood the bill to say that if the district court was paying for those categories in 1998 and 1999, the state would pay for those categories in the next biennium. She questioned whether district judges would place kids regardless of cost because the state would pick up the tab. She did not see it as a fixed dollar amount but an expense category. Judy Paynter, DOR, addressed SEN. WATERMAN's concern. She stated that district court budgets were not crystal clear and that judges do not always have the same concern for money as those that work in finance. She said there were some constraints in the bill when taken as a whole. There would be a limited appropriation and non-court variable costs are allocated to each court in the same proportion to that appropriation as they had in 1999. A judicial council made up of judges could take the variable district court costs and decide which courts have problems and allocate. There are some self-governing controls. Regarding the concern of judges charging more than they would have if they county was paying, language was put in trying to make it clear that there were limits. SEN. WATERMAN agreed that there were built in limits for court costs and employees, but her concern was with

judges committing someone to Warm Springs or a juvenile to a residential placement possibly out of state. She did not see in the bill where the council of judges would have any control. She interpreted that if counties paid the expenses for placements in 1998 and 1999, that the state would pay them in the future. She did not see anything in the bill saying they would have to live within the budget. {Tape : 1; Side : B} Ms. Paynter agreed saying that if they decided not to live within that budget, there was a possibility of a supplemental in the next session. SEN. WATERMAN said that presently, with the pilot projects, with juvenile justice and with mental health commitments there is a disincentive for counties to place out of state because they are responsible for that cost. She felt the language in the bill removed the disincentive. She did not feel that was affordable. Ms. Paynter said if there was a better way to set those limits in the bill, it would be welcome. SEN. WATERMAN said one way would be for juveniles to be committed to the department with the department deciding on placement. VICE-CHAIRMAN KEN MILLER commented that there was a need to pass the bill through against a time frame, and wondered how the sponsor might address some of the concerns. SEN. McNUTT said he did not know how to address the concerns at the moment, but did know that the bill was to be coordinated with HB 124. He wanted to keep the bill alive and keep working on it.

SEN. ROYAL JOHNSON commented on the objective of moving all Montana governments toward the vision contained in SB 184. He wondered how the bill makes a partnership between governments. It seemed to him that some governments were going to make decisions and some were going to pay for those decisions. He thought district judges would make decisions and state government would pay for them. He wasn't sure that kind of money was available. He was concerned with having no control. He said it did not sound like much of a partnership. SEN. McNUTT disagreed. SEN. WATERMAN thought it was an important bill and said she was not trying to kill the bill. She suggested that the bill move forward but that the issue should be resolved before the bill passes all the way through. Her concern was about a large supplemental in the next session.

SEN. BECK asked why it was not in the bill that the county would assume those expenses if they were over the limit. Gordon Morris, MACO, replied that the bill was part of a package. The Interim District Court Funding and Structure Study Proposal is tied to the funding mechanism that they requested the interim Local Government Funding and Structure Committee to come up with. He said that if counties are assuming to get rid of financial

responsibility in terms of the transfer to the state and then end up with the assumption that if money appropriated is insufficient, that counties will pick up the costs. He said that did not square with what they actually intended. He said there was a lot of work that needed to be done on the section. His choice would be to use Section 3-5-901 in HB 124. He recognized that there would be significant instructions to be put into both bills to get them coordinated. He explained the fiscal note and concluded that revenue would be sufficient to pay for the costs.

Ms. Paynter explained that originally some employees that do some work other than district court chargeable work were all going to be paid by the state. In the Judiciary committee it was worked out that those employees would stay as county employees, and state would reimburse the county for district court work. That put the state in the position of having to trust that the county would not contract elaborately. If the counties wanted to double salaries, the state would not have to pay above the current level. Language was put in the bill to control that. **SEN. WATERMAN** suggested moving forward on the bill, but the issue of juvenile placements needed to be clarified.

Motion: **SEN. WATERMAN** moved that **SB 176 DO PASS.**

SEN. BECK declared that he thought the bill was tabled. **VICE-CHAIRMAN MILLER** said it was, but had been reconsidered.

SEN. CHRISTIAENS asked what happened to the 1 percent local option tax that counties were able to use to fund their court system. He said not all counties utilized that and he wondered what happens to that in the context of the bill. **Ms. Paynter** clarified that some counties have been using that to fund district courts. That revenue would stay at the local level, but that particular money would not be spent on district courts. **SEN. CHRISTIAENS** said it was his understanding the money would be used for district courts and it seemed to him that money would go away if the bill passes. If not, since it was specific to the district court, he wondered why not. **Ms. Paynter** believed the language was the money "may be used" for the district court but counties did not have to. Some did and others did not. It would become a revenue source that counties could use.

Vote: Motion SB 176 passed 15-3 with Cobb, Johnson, and Mohl voting no.

EXECUTIVE ACTION ON SB 289

amendment required the 1 ½ percent in HB 2 and at any stage that there was change, it would change the bottom line.

SEN. GREG JERGESON asked about the effect on the ending fund balance. CHAIRMAN KEENAN said that could be looked into. SEN. NELSON declared that HB 124 was greatly amended and wondered if SB 176 would still fit comfortably under that umbrella as it had been amended. Ms. Paynter said it did and that the finances had been worked out. At the end of the 2003 biennium, there would be \$8.4 million additional general fund. CHAIRMAN KEENAN commented that in the technical notes it said that SB 176 and 124 were intended by the sponsoring agencies to be revenue neutral in combination. There is no provision in 176 binding its approval to 124.

HEARING ON SB 338

Sponsor: SEN. DALE BERRY, SD 30, Hamilton

Proponents: Mary Dalton, Bureau Chief Medicaid Services
and CHIP Bureau, DPHHS
Brianna Kirsty, Montana Peoples Action
Jim Campbell, Montana Catholic Conference
Chuck Butler, Blue Cross Blue Shield of
Montana
Betty Whiting, Montana Association of
Churches
Steve Yeakel, Montana Council for Maternal
and Child Health
Bonnie Adee, Mental Health Ombudsman
Sami Butler, Executive Director Montana
Nurses Association
Jane McCall, Deaconess Billings Clinic
Beda Lovitt, Montana Medical Association
John Flink, Montana Hospital Association
Claudia Clifford, Insurance Commissioner's
Office
Christine Amundson, Montana Association of
Social Workers
Al Davis, Mental Health Association of
Montana
Adam Frederick, President Student Council
Scobey High School

Opponents: None.

Opening Statement by Sponsor:

The Court Funding
and Structure Committee

SENATE FUNDING AND CLERKING
EXHIBIT NO. 2
DATE 3-21-01
BILL NO. SB176

SIMPLIFICATION

In the

21ST CENTURY

Findings and Recommendations ■ November 2000

EV3

Amendments to Senate Bill No. 176
3rd Reading Copy as Amended (04)

Requested by Senator Walter McNutt

For the House Appropriations Committee

Prepared by Valencia Lane
March 30, 2001 (1:34PM)

1. Page 12, line 26.
Following: line 25
Strike: line 26 in its entirety

2. Page 12, line 28 through line 29.
Following: the second "PROCEEDINGS" on line 28
Strike: remainder of line 28 through "1999" on line 29
Insert: "in fiscal year 2001"
Following: "FACTOR" on line 29
Insert: "each year"

3. Page 12, line 30.
Following: line 29
Strike: "AVERAGE"

4. Page 13, line 2.
Following: "SUBSECTION (1)"
Strike: "AND TO THE EXTENT THAT FUNDS ARE AVAILABLE,"

5. Page 13, line 8.
Following: line 7
Insert: "["

6. Page 13, line 9.
Following: "BALANCE."
Insert: "]"

7. Page 39, line 15.
Following: "3-5-901"
Insert: "(3) and (4)"

11270
HJ 9267 662000

Amendments to Senate Bill No. 176 BILL NO. SB 176
3rd Reading Copy

Requested by Senator Walter McNutt

For the Senate Finance Committee

Prepared by Valencia Lane
March 19, 2001 (3:29PM)

1. Page 35, line 10.

Following: line 9

Insert: "(3) If House Bill No. 62 and [this act] are both passed and approved, then House Bill No. 62 is void.

(4) If Senate Bill No. 66 and [this act] are both passed and approved, then 3-5-901(2)(a) in [this act] is amended to read:

"(2) For the purposes of subsection (1), district court costs do not include:

(a) the percentage of the salaries of county attorneys payable by counties under 7-4-2503;"."

- END -

The following exhibit is more than the 10
(ten) page scan limit.

Exhibit: 4

4.2.01

The complete exhibit is located with the
minutes are at the
Montana Historical Society Archives
225 North Roberts
Helena, MT 59620-1202
[406] 444-4775

Ex. #4 Ex 4
SB 176
Appropriations
4/5/01

Amendments to Senate Bill No. 176
3rd Reading Copy as Amended (04)

Requested by Senator Walter McNutt

For the House Appropriations Committee

Prepared by Valencia Lane
April 3, 2001 (8:56AM)

1. Page 12, line 26.

Following: "by the"

Strike: "department of administration"

Insert: "appellate defender program"

2. Page 12, line 28 through line 29.

Following: the second "PROCEEDINGS" on line 28

Strike: remainder of line 28 through "1999" on line 29

Insert: "in fiscal year 2001"

Following: "FACTOR" on line 29

Insert: "each year"

3. Page 12, line 30.

Following: line 29

Strike: "AVERAGE"

4. Page 13, line 2.

Following: "SUBSECTION (1)"

Strike: "AND TO THE EXTENT THAT FUNDS ARE AVAILABLE."

5. Page 13, line 8.

Following: line 7

Insert: "["

6. Page 13, line 9.

Following: "BALANCE."

Insert: "]"

7. Page 39, line 15.

Following: "3-5-901"

Insert: "(3) and (4)"

HOUSE OF REPRESENTATIVE
ROLL CALL

APPROPRIATIONS COMMITTEE

DATE 4-5-01

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Steve Vick, Chair			
Dave Lewis, V. Chair			
Matt McCann, V. Chair			
John Brueggeman			
Roasalie Buzzas			
Tim Callahan			
Edith Clark			
Bob Davies			
Stanley Fisher			
Dick Haines			
Joey Jayne			
Dave Kasten			
Christine Kaufmann			
Monica Lindeen			
Jeff Pattison			
Art Peterson			
Joe Tropila			
John Witt			

House of Representatives

Roll Call Vote

DCAA

APPROPRIATIONS COMMITTEE

DATE 4-5-01 Bill NO. SB 174 NUMBER 14-4

MOTION: Rep with DCAA

Name	AYE	NO
Dave Lewis (R)		✓
John Brueggeman (R)	✓	
Rosalie Buzzas (D)	✓	
Tim Callahan (D)	✓	
Edith Clark (R)	✓	
Bob Davies (R)		✓
Stanley Fisher (R)		✓
Dick Haines (R)	✓	
Joey Jayne (D)	✓	
Dave Kasten (R)	✓	
Christine Kaufmann (D)	✓	
Monica Lindeen (D)	✓	
Matt McCann (D)	✓	
Jeff Pattison (R)	✓	
Art Peterson (R)	✓	
Joe Tropila (D)	✓	
John Witt (R)	✓	
Steve Vick (R)		✓

House of Representatives

Roll Call Vote

Pass

APPROPRIATIONS COMMITTEE

DATE 4-5-01 Bill NO. SB 176 NUMBER 135MOTION: Rep with amendment SB 017612. Aul
segregated by Rep Haines
all but line 4

Name	AYE	NO
Dave Lewis (R)		✓
John Brueggeman (R)		✓
Rosalie Buzzas (D)		
Tim Callahan (D)		
Edith Clark (R)		
Bob Davies (R)		
Stanley Fisher (R)		✓
Dick Haines (R)		✓
Joey Jayne (D)		
Dave Kasten (R)		
Christine Kaufmann (D)		
Monica Lindeen (D)		
Matt McCann (D)		
Jeff Pattison (R)		
Art Peterson (R)		
Joe Tropila (D)		
John Witt (R)		
Steve Vick (R)		✓

House of Representatives

Roll Call Vote

Pass

APPROPRIATIONS COMMITTEE

DATE 4-5-01 Bill NO. SB176 NUMBER 13-5MOTION: Rep With Amendment SB017612-AU/
Segregated by Rep Haines Line 4

Name	AYE	NO
Dave Lewis (R)		✓
John Brueggeman (R)		✓
Rosalie Buzzas (D)	✓	
Tim Callahan (D)	✓	
Edith Clark (R)	✓	
Bob Davies (R)		✓
Stanley Fisher (R)		✓
Dick Haines (R)	✓	
Joey Jayne (D)	✓	
Dave Kasten (R)	✓	
Christine Kaufmann (D)	✓	
Monica Lindeen (D)	✓	
Matt McCann (D)	✓	
Jeff Pattison (R)	✓	
Art Peterson (R)	✓	
Joe Tropila (D)	✓	
John Witt (R)	✓	
Steve Vick (R)		✓



HOUSE STANDING COMMITTEE REPORT

April 5, 2001

Page 1 of 2

Mr. Speaker:

We, your committee on Appropriations recommend that Senate Bill 176 (third reading copy - blue) be concurred in as amended.

Signed: _____

Representative Steve Vick, Chair

To be carried by Representative John Witt

And, that such amendments read:

1. Page 12, line 26.

Following: "by the"

Strike: "department of administration"

Insert: "appellate defender program"

2. Page 12, line 28 through line 29.

Following: the second "PROCEEDINGS" on line 28

Strike: remainder of line 28 through "1999" on line 29

Insert: "in fiscal year 2001"

Following: "FACTOR" on line 29

Insert: "each year"

3. Page 12, line 30.

Following: line 29

Strike: "AVERAGE"

4. Page 13, line 2.

Following: "SUBSECTION (1)"

Strike: "AND TO THE EXTENT THAT FUNDS ARE AVAILABLE,"

5. Page 13, line 8.

Following: line 7

Insert: "[

Committee Vote:

Yes 14, No 4.

771410SC.hdc

4/5
mr

6. Page 13, line 9.
Following: "BALANCE."
Insert: "]"

7. Page 39, line 15.
Following: "3-5-901"
Insert: "(3) and (4)"

- END -

{Tape : 1; Side : A; Approx. Time Counter : 292}

Closing by Sponsor:

Rep. Lewis stated the majority of the people involved in drafting the bill were definite in their decision to use funds from MTAP since it had a large fund balance. He closed on HB 651.

{Tape : 1; Side : A; Approx. Time Counter : 308}

HEARING ON SB 176

Sponsor: Sen. Walter J. McNutt, SD 50, Sidney

Proponents: Jean Curtiss, County Commissioner, Missoula County; Gordon Morris, Director, Montana Association of Counties (MAC); Ron Alles, Chief Administrative Officer, Lewis & Clark County; Ann Mary Dussault, Chief Administrative Officer, Missoula County.

Opponents: Mona Jamison, Attorney, Helena, Lobbyist, Gallatin County; John Larson, District Court Judge, Missoula; Glenn Welch, Chief Probation Officer, Missoula County.

Opening Statement by Sponsor:

Sen. Walter J. McNutt, SD 50, Sidney, introduced SB 176 which was requested by the Department of Administration and the Department of Revenue. It is an act providing for state assumption of the costs of funding district courts, excluding county attorneys, public defenders and clerks of district court. This bill is a result of a study. He reported various results of the study such as the multiple sources of funding, the personnel becoming state employees or remaining county employees, and court recorders' status. The bill sets up the system for all employee situations.

EXHIBIT(aph74a02)

{Tape : 1; Side : B; Approx. Time Counter : 30}

Proponents' Testimony:

Jean Curtiss, County Commissioner, Missoula County, spoke in favor of SB 176. She stated as a new commissioner she studied the issue fully in Missoula County in order to understand it, and she reported her findings to the committee. SB 176 would put the

entire system under the state judicial system and would be revenue neutral to the state. She urged support of the SB 176.

Gordon Morris, Director, Montana Association of Counties (MAC), spoke in support of SB 176 and distributed information on suggested amendments. He explained the amendments and the problems of the current system.

EXHIBIT(aph74a03)

Ron Alles, Chief Administrative Officer, Lewis & Clark County, stood in support of SB 176. He added the bill is a culmination of a very thorough process and much work on the part of the committee.

{Tape : 1; Side : B; Approx. Time Counter : 200}

Ann Mary Dussault, Chief Administrative Officer, Missoula County, spoke as a former legislator who had involvement in this issue years ago. She distributed information to the committee and covered the highlights. She stated the bill is revenue neutral to the state. She stated district courts are in essence state courts and urged support of SB 176.

EXHIBIT(aph74a04)

{Tape : 2; Side : A; Approx. Time Counter : 20}

Opponents Testimony:

Mona Jamison, Attorney, Helena, Lobbyist for Gallatin County, stated Gallatin County opposed SB 176 due to the fear of losing administration of district courts and creating new problems. Local control is necessary in the election of judges. She stated the creation of new employees to administer district courts from the state level causes SB 176 not to be revenue neutral to the state.

John Larson, District Court Judge, Missoula, rose in opposition to SB 176. He stated the people would receive no benefits in transferring control of the district court to Helena. He urged the committee to examine the true costs and the effects of administering the county courts at a state level.

Glenn Welch, Chief Probation Officer, Missoula County, spoke in opposition of SB 176. He stated the increased workload in the

past 25 years has been handled only by use of grants and was concerned the grants would be lost.

Informational Witnesses: None.

{Tape : 2; Side : A; Approx. Time Counter : 305}

Questions from Committee Members and Responses:

Rep. Witt asked about the \$13,000,000 "black hole" of funding referred to by Judge Larson. Ann Mary Dussault responded it was not a black hole but rather a number of local revenues that will go to the state and be used to fund the district court costs.

Rep. Witt asked if the District Court system in Missoula was different than any other county in Montana. Ann Mary Dussault answered Missoula County has a set of unique programs that are highly collaborative among state, county, and local programs. She felt the bill addressed the grant issues.

Rep. Kaufmann asked about the supervision of employees being transferred to a bureaucracy in Helena. Ann Mary Dussault responded there would be some changes in supervision but felt day-to-day supervision remained with the district judge and was addressed in the bill.

Rep. Kaufmann asked the number of counties that did not support the bill. Gordon Morris stated he knows only of Gallatin and Yellowstone Counties that do not support the bill. Yellowstone County has a relatively unique situation with the public defender program.

Rep. Jayne asked about Lake County's position on the issue. Gordon Morris stated Lake County Commissioner Mike Hutchin served on the interim committee and believes Lake County supports the bill.

Rep. Jayne asked Mr. Morris' opinion in regard to the opponents concern of the district courts being under the administration of the state. Gordon Morris stated he viewed the concern voiced of central administration was a plus and the districts would be more equitably funded without any individual losses or loss of grant monies.

Rep. Jayne asked about the lack of support from the legal community and the Bar Association.

Judge Larson stated he could not speak for the Bar but the District Court Reimbursement Program was more equitable as determined in a 1995 study. He felt the system in SB 176 has no shape or form. Extra funds needed to implement SB 176 would be better used to enhance the current district court reimbursements.

Rep. Jayne asked about the interfacing issues such as the administration done by whom and from where.

{Tape : 2; Side : B; Approx. Time Counter : 0}

Judge Larson answered he views his work as community work and views problems with youth not as state responsibilities but local community responsibilities. Transferring administration to Helena will de-sensitize youth court processes.

Rep. Fisher asked what assurance there is that the counties will reduce their cost proportionately.

Gordon Morris answered HB 124 will be reducing the counties' entitlement provision which, in turn, will provide the funding for SB 176. There will be no reductions at the county level in taxes; it will indirectly go to the state level for the district court expenses.

Rep. Fisher asked about Flathead County's position. **Gordon Morris** replied one Flathead County Commissioner is in support of SB 176 and he did not know the position of the other two. Most opposition he has seen is from the court side and not the commission side.

Rep. Fisher asked about the lack of interest of the Supreme Court and if the Court was in support of SB 176. **Sen. McNutt** stated the position of the Supreme Court is that they are non-partisan and the Judiciary Branch cannot take a position. They will abide by what is decided by the Legislative Branch.

Chairman Vick asked about the addition of 8.5 FTE and the increase in pay for some employees and, therefore, how it could still be revenue neutral for the state.

Judy Paynter, Department of Revenue, responded as the committee facilitator during the interim. She stated the 8.5 FTE are currently in place in the various counties; however, when divided by the 56 counties, it was difficult to pull that amount of money from each county. Therefore, the revenue expenditure is in HB 124 and is offset by the incoming revenues.

Rep. Kasten asked about the statement made that 8.5 FTE would not be enough and that 15 FTE would be necessary. Judy Paynter answered the 15 FTE requested was scrutinized and trimmed to a minimum of 8.50.

Sen. McNutt responded to Chairman Vick's question that county funds would flow into the state and provide the funding at the state level to implement the additional FTE.

{Tape : 2; Side : B; Approx. Time Counter : 130}

Closing by Sponsor:

Sen. McNutt stated in closing that in exhibit 2, page 6, it is stated the State Bar of Montana unanimously approved a motion supporting state funding of the district courts. He clarified other concerns voiced during the hearing in regard to probation officers and court reporters. He stated the committee worked hard on putting a system together for the State to assume the district courts and put equality in the various districts throughout the entire state. He added it is a big step but it is time to be proactive. Sen. McNutt closed on SB 176.

{Tape : 2; Side : B; Approx. Time Counter : 250}

HEARING ON SB 338

Sponsor: Sen. Dale Berry, SD 30, Hamilton

Proponents: Steve Yaekel, Montana Council for Maternal and Child Health; Betty Whiting, Billings, Montana Association of Churches; Sammy Butler, RN, Montana Nurses Association; Sharon Hoff-Brodowy, Montana Catholic Conference; Bob Olson, MHA; Bonny Aidy, Mental Health Care; Jani McCall, Deaconess Billings Clinic; Mary Dalton, Bureau Chief, Medicaid and CHIP, Department of Health and Human Services; Colleen Murphy, Helena, Executive Director, Montana Chapter National Association of Social Workers; Chuck Butler, Blue Cross/Blue Shield of Montana; Jerry Lendorf, Montana Medical Association; Al Davis, Mental Health Association.

Opponents: None.

Opening Statement by Sponsor:

Sen. Dale Berry, SD 30, Hamilton, introduced SB 338 which is to increase the poverty level for the CHIP funding from 150% of the

The following exhibit
is more than the ten (10) page limit
in scanning.

Exhibit 1

2.17.01

SB 176

The complete exhibit is located with the
minutes are at the
Montana Historical Society Archives
225 North Roberts
Helena, MT 59620-1202
[406] 444-4775

EXECUTIVE ACTION ON SB 176

Motion: REP. WITT moved SB 176 BE AMENDED. Amendments were handed out EXHIBIT(aph77a04).

Discussion:

REP. WITT explained the background of the bill and the amendments adding clarifications. He mentioned the comparison of this bill relating to HB 124.

{Tape 3; Side B}

Linda Stahl, Missoula County, explained the amendments, which would work with language changes.

CHAIRMAN VICK asked about lines eight and nine being sunset. Linda Stahl said that was the meaning of the brackets.

REP. JOE TROPILA asked if all the counties were levying for courts. Linda Stahl did not have an answer for this question, but was willing to research and bring an answer back to the committee regarding this issue.

REP. DICK HAINES asked about the impact involving the Department of Administration to an appellate defender court. Linda Stahl said there was a specific reference to the public defender program.

REP. HAINES wanted an understanding of this issue. Linda Stahl said it was staff inserted language. REP. LINDEEN thought the reasoning was to insert the appellate defender program in place of the Department of Administration, which would be referring to a specific portion of the budget.

REP. DAVE KASTEN supported the amendment.

CHAIRMAN VICK asked about appropriating a portion of money where funds may not be available. REP. KASTEN thought if HB 124 did not pass there would not be funding available.

CHAIRMAN VICK said there would be funding for the program and counties would need to be reimbursed when the funds were not available. REP. KASTEN thought the language in the amendment was needed to enforce these actions. Taryn Purdy, Legislative Staff, explained the basics of costs available and how they would be incurred beyond the budget.

CHAIRMAN VICK wondered about the supplemental. Taryn Purdy mentioned the funds through the biennium.

REP. WITT asked for an affirmation regarding this issue. Linda Stahl explained budget authority and the available funding.

REP. STANLEY FISHER asked about the mechanics of distributing the funds. Taryn Purdy explained the disbursement of funds.

REP. FISHER commented on the district courts and the effects upon the counties. CHAIRMAN VICK addressed the county commissioners being opposed to this issue also. He felt amendment four would add problems.

REP. JOHN BRUEGGEMAN talked about Lake County commissioners supporting this issue. He didn't feel there was a mandate on spending for this and he opposed the issue.

REP. WITT responded by asking the committee to take the significant changes into consideration.

Substitute Motion: REP. HAINES made a substitute motion segregating item four from the amendment.

Discussion:

REP. PATTISON wondered about the amendment and asked why county commissioners were supporting this issue. REP. KASTEN supported line four of the amendment and he emphasized the change involved with the bill. He said commissioners want the amendments originally.

REP. TIM CALLAHAN thought the district courts responsibilities were being taken away and given to the state. He didn't think the language in the amendment was offering support.

REP. WITT made clarifications of the amendments. He said the expenses would be the responsibility of the county for the first two years.

REP. LEWIS mentioned a letter from a judge and the opposition of this issue. REP. WITT responded the judges were involved with the discussion of this issue.

{Tape 4; Side A}

Valencia Lane, Legislative Staff, explained the amendments and the court costs involved.

REP. PATTISON asked why the justices have a problem with this bill. CHAIRMAN VICK referenced the bill pertaining to judges.

REP. LINDEEN wanted clarification regarding the pay for public defenders. Gordon Morris commented on the amendments and gave clarifications to questions being asked.

REP. BUZZAS asked if the amendment was added would it still go to a conference committee. CHAIRMAN VICK explained if the Senate was to reject the amendments a conference committee would be established.

Vote: Substitute Motion carried 13-5 with REP. LEWIS, REP. BRUEGGEMAN, REP. DAVIES, REP. FISHER and CHAIRMAN VICK voting no.

Motion: REP. WITT moved SB 176 BE CONCURRED IN AS AMENDED.

Discussion:

Vote: Motion carried 14-4 with REP. LEWIS, REP. DAVIES, REP. FISHER and CHAIRMAN VICK voting no.

EXECUTIVE ACTION ON SB 445

Motion: REP. VICK moved SB 445 BE AMENDED. Amendments already handed out in previous meeting.

Discussion:

CHAIRMAN VICK talked about the sunset date being changed.

REP. BUZZAS did not understand the effect of the amendment. CHAIRMAN VICK offered clarification of the sunset date and the funding available.

Vote: Motion carried unanimously.

Motion: REP. BRUEGGEMAN moved SB 445 BE AMENDED. Amendments were handed out SB044503.agp EXHIBIT(aph77a05).

Discussion:

MINUTES

MONTANA SENATE

57th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 176

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on April 19, 2001
at 2:10 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Rep. John Witt, Chairman (R)
Rep. Ron Erickson (D)
Rep. John Esp (R)
Sen. Mike Halligan (D)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 176, 4/18/2001

HEARING ON SB 176

Questions from Committee Members and Responses:

Valencia Lane explained the proposed amendments (SB017616.avl), EXHIBIT(frs88sb0176a01) to SB 176. The amendments would activate the Judicial Council as of July 1, 2001 and allow county employees to become state employees as of July 1, 2002. County employees transferred over in 2002 would have their pay protected and the pay plan would not be implemented until July 1, 2003 when

the Supreme Court would adopt the judicial branch plan. The amendments would move the effective date one year.

Judy Paynter, Montana Department of Revenue, maintained the department would look at the county district court expenditures from fiscal year 2001, and would deduct them from their entitlement share payments. The monies for administering the Supreme Court would be deducted from the counties' entitlement share.

REP. JOHN ESP asked **Ms. Paynter** to clarify.

Judy Paynter explained the process would consist of defining district court expenditures from non-district court expenditures. She instructed that her office would work with counties to consistently and uniformly define those expenditures in fiscal year 2001. Those court expenditures for fiscal year 2001 would be deducted from the revenue entitlement share and would be given to the Montana Supreme Court to pay the same expenditures.

REP. ESP reiterated that the number would be based on fiscal year 2001. He surmised that the entitlement share of HB 124 for fiscal year 2002 would not be deducted from the county court cost, but would be deducted in 2003. **Judy Paynter** clarified she had given the 2003 version because of a slight complication in 2001 for the one year delay. The money would be added to the 2002 payment entitlement share payment. The base would be established and then in 2002 the money would be given to back to the counties for that year only.

REP. RON ERICKSON wondered if the suggestion was included in HB 124. **Judy Paynter** explained that the Department of Revenue would be responsible for determining and working out the numbers in HB 124.

Gordon Morris, Director of the Association of Counties, agreed with **Ms. Paynter**, adding that it would not be as uncertain as it would appear. He explained that while counties could be doing different things they would all have to comply with the BAR's Chart of Accounts, which would dictate the difference between a district court expense versus an expense for the general fund. Many counties still fund district courts out of the general fund but there's still identifiable costs pursuant to the BAR's Chart of Accounts. He clarified that **Ms. Paynter** was suggesting that the bill would clean up fiscal year 2001, allowing the funds to be correctly identified as a court fund or a general fund. The

Chart Account would control and decide whether the deposited money would be appropriate.

SEN. LORENTS GROSFIED asked for an example of an expenditure or account that might be treated differently from one county to another. **Mr. Morris** explained there were variations in the funding of district court expenses. He surmised that many counties would have staff that could be misapplying charts, codes and funding expenses that should legitimately come from other funds such as welfare or the general fund.

REP. ESP queried whether the numbers being used in HB 124 would be based on the BAR's Charts of Accounts. **Mr. Morris** explained that the numbers in HB 124 were the numbers the interim committee had received from the clerks of court from all 56 counties for the period 1998-99. The numbers would need to be updated for the fiscal year 2001. The 2001 figure would be fixed to HB 124, relative to the deduction made against the entitlements.

REP. ESP wondered if the numbers on HB 124 were adjusted for growth. **Judy Paynter** responded that the numbers were confirmed through a survey of the counties. Inflation was applied to the numbers to bring them to the current fiscal year 2001.

REP. ERICKSON questioned why the transition was pushed to 2002. **Judy Paynter** responded that pushing the transition to 2002 would allow the employees to participate in the development of the pay plan. The actual taking over of district court had been July 1, 2001, which was changed to July 1, 2002. The Supreme Court had stressed some concerns over taking on the district courts, stressing the need for more preparation time. The bill had been amended to create the judicial council to address those preparations.

REP. ERICKSON wondered about the second transition after 14 months. **Ms. Paynter** reiterated the second transition would allow the judiciary to develop a pay plan that would address employees that have become state employees under the new system. The employees would participate with the judiciary council on the pay plan.

REP. ERICKSON voiced his concerns that delaying the pay plan an extra year would hurt some judicial employees. **Judy Paynter** explained that for fiscal year 2003, as written in the bill, county employees that joined the state would receive the state pay raise.

REP. JOHN WITT requested that **Gordon Morris** explain the reimbursement and county portion. **Mr. Morris** referred him to section 17 on page 12-13. **Mr. Morris** explained the expenses would back off one year in fiscal year 2003. He stated that page 13 line 10 stated, "that if money appropriated for the expenses listed in 4(a) would be insufficient to fully fund those expenses the county is responsible for payment of the balance". The sunset, contained later in the bill, contains bracketed language that would be gone after the sunset in fiscal year 2003. The language on page 12, line 28 and ending on line 2 on page 13 would also disappear after the sunset.

SEN. MIKE HALLIGAN wondered how the language regarding the county being responsible for youth committed to youth court would dovetail with SB 176. **Mike Ferriter, Administrator Community Corrections**, purported there would need to be a coordinating instruction in order to make SB 386 work. He suggested the coordinating instruction change the committing "county" to the committing "youth court". That would resolve the issue of eliminating the word "county".

SEN. HALLIGAN clarified that the expenses would be borne by the committing youth court. He wondered where the funding had previously originated. **Mr. Ferriter** explained that the funds had been county/district court expenses. He maintained that the funds had never belonged to the Department of Corrections. **Gordon Morris** stated the amendment would designate youth court expenses as district court expenses, which would accrue to the state under the intent of SB 176.

Motion: REP. ESP moved that SB 176 BE AMENDED (SB017616.av1) and INCLUDE LANGUAGE THAT WOULD COORDINATE THE BILL WITH SB 386.

Discussion:

Valencia Lane indicated the amendment would read, "If both SB 386 and SB 176 are passed and approved then 52-5-109 in SB 386 is amended to read: "The expenses of committing a youth to the department or to the youth court must be borne by the committing youth court."

VOTE: REP. ESP'S motion that SB 176 BE AMENDED passed unanimously.

Motion/Vote: REP. ESP moved that SB 176 BE ADOPTED AS AMENDED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 2:35 P.M.

SEN. LORENTS GROSFIELD, Chairman

LINDA ASHWORTH, Secretary

LG/LA

EXHIBIT(frs88sb0176aad)

4-19-01

Exhibit # 1

SB 176

Amendments to Senate Bill No. 176
Reference Copy (05 version)

Requested by Senator Walter McNutt

For the Senate Conference Committee

Prepared by Valencia Lane
April 19, 2001 (12:35PM)

1. Title, line 28.

Following: "PROVIDING"

Strike: "AN"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

2. Page 34, line 26.

Following: "Repealer."

Insert: "(1)"

Strike: "3-5-404."

3. Page 34, line 28.

Insert: "(2) Section 3-5-404, MCA, is repealed."

4. Page 36, line 14.

Strike: "2001"

Insert: "2002"

5. Page 36, line 15.

Strike: "2001"

Insert: "2002"

6. Page 36, line 20.

Strike: "2001"

Insert: "2002"

7. Page 36, line 22.

Strike: "2001"

Insert: "2002"

8. Page 36, line 23.

Strike: "2001"

Insert: "2002"

9. Page 36, line 28.

Strike: "2001"

Insert: "2002"

10. Page 37, line 9.

Strike: in two places "2001"

Insert: "2002"

11. Page 37, line 27.

Strike: "2002"

Insert: "2003"

12. Page 37, line 29.

Strike: "2002"

Insert: "2003"

13. Page 37, line 30.

Strike: "2002"

Insert: "2003"

14. Page 38, line 2.

Strike: "2001"

Insert: "2002"

15. Page 38, line 4.

Strike: "2002"

Insert: "2003"

16. Page 38, line 11.

Strike: "2002"

Insert: "2003"

17. Page 38, line 17.

Following: "fiscal"

Strike: "years 2002 and"

Insert: "year"

18. Page 39, line 12.

Following: "Effective"

Strike: "date"

Insert: "dates"

Following: "."

Strike: "[This act] is effective July 1, 2001."

Insert: "(1) [Sections 21, 52(2), 64, and 65 and this section]
are effective on passage and approval.

(2) [Sections 1, 4 through 8, and 62] are effective
July 1, 2001.

(3) [Sections 2, 3, 9 through 20, 22 through 51,
52(1), and 53 through 61] are effective July 1, 2002. "

19. Page 39, line 15.

Strike: "2002"

Insert: "2003"

- END -



FREE CONFERENCE COMMITTEE

on Senate Bill 176

Report No. 1, April 19, 2001

Page 1 of 3

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered Senate Bill 176 (reference copy - salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:

Lunt/Conrad ^{REP}

Chair

State Miller

W. Haly

One R Oyle

Amendment Coordinator

Lysana Skelton

Secretary of Senate

For the House:

John E. Will

Vice-Chair

Handerson

John Ess

And, recommend that Senate Bill 176 (reference copy - salmon) be amended as follows:

1. Title, line 28.

Following: "PROVIDING"

Strike: "AN"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

2. Page 34, line 26.

ADOPT

AC SB 176-1

REJECT

881514FC.sjo

Following: "Repealer."

Insert: "(1)"

Strike: "3-5-404,"

3. Page 34, line 28.

Insert: "(2) Section 3-5-404, MCA, is repealed."

4. Page 35, line 26.

Insert: "(5) If Senate Bill No. 386 and [this act] are both passed and approved, then 52-5-109(1) in Senate Bill No. 386 is amended to read:

"(1) The expenses of committing a youth to the department or to the youth court must be borne by the committing youth court.""

5. Page 36, line 14.

Strike: "2001"

Insert: "2002"

6. Page 36, line 15.

Strike: "2001"

Insert: "2002"

7. Page 36, line 20.

Strike: "2001"

Insert: "2002"

8. Page 36, line 22.

Strike: "2001"

Insert: "2002"

9. Page 36, line 23.

Strike: "2001"

Insert: "2002"

10. Page 36, line 28.

Strike: "2001"

Insert: "2002"

11. Page 37, line 9.

Strike: in two places "2001"

Insert: "2002"

12. Page 37, line 27.

Strike: "2002"

Insert: "2003"

13. Page 37, line 29.

Strike: "2002"

Insert: "2003"

14. Page 37, line 30.

Strike: "2002"

Insert: "2003"

15. Page 38, line 2.

Strike: "2001"

Insert: "2002"

16. Page 38, line 4.

Strike: "2002"

Insert: "2003"

17. Page 38, line 11.

Strike: "2002"

Insert: "2003"

18. Page 38, line 17.

Following: "fiscal"

Strike: "years 2002 and"

Insert: "year"

19. Page 39, line 12.

Following: "Effective"

Strike: "date"

Insert: "dates"

Following: "."

Strike: "[This act] is effective July 1, 2001."

Insert: "(1) [Sections 21, 52(2), 53 through 55, 64, and 65 and this section] are effective on passage and approval.

(2) [Sections 1, 4 through 8, and 62] are effective July 1, 2001.

(3) [Sections 2, 3, 9 through 20, 22 through 51, 52(1), and 56 through 61] are effective July 1, 2002. "

20. Page 39, line 15.

Strike: "2002"

Insert: "2003"

- END -

881514FC.sjo